

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 IN RE: NATIONAL PRESCRIPTION :
 OPIATE LITIGATION : MDL No. 2804
5 _____ : Case No.
 : 1:17-md-2804
6 THIS DOCUMENT RELATES TO: :
 :
7 The County of Lake, Ohio v. : Hon. Dan A. Polster
 Purdue Pharma, LP, et al. :
8 Case No. 18-op-45032 :
 :
9 The County of Trumbull, Ohio :
 v. Purdue Pharma, LP, et al. :
10 Case No. 1:18-op-45079 :
 :
11 Track 3 Cases :
 _____ :
12

13 - HIGHLY CONFIDENTIAL -
14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15 - - -

16 March 5, 2021

17 - - -

18 Videotaped remote deposition
19 of RICHARD SHAHEEN, taken pursuant to
 notice, was held via Zoom
20 videoconference, beginning at 10:23 a.m.,
 EST, on the above date, before Michelle
21 L. Gray, a Registered Professional
 Reporter, Certified Shorthand Reporter,
22 Certified Realtime Reporter, and Notary
 Public.

23 - - -

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5 Testimony of:

RICHARD SHAHEEN

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8
9 By Mr. Kobrin 389, 443
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2 THE VIDEOGRAPHER: We are
3 now on the record. My name is Dan
4 Lawlor. I'm a videographer
5 representing Golkow Litigation
6 Services.

7 Today's date is March 5th,
8 2021, and the time is 10:23
9 eastern.

10 This remote video deposition
11 is being held in the matter of
12 opioid litigation Track 3,
13 Counties of Lake and Trumbull,
14 Ohio, v. Purdue.

15 All parties to this
16 deposition are appearing remotely
17 and have agreed to the witness
18 being sworn in remotely.

19 Due to the nature of remote
20 reporting, please pause briefly
21 before speaking to ensure all
22 parties are heard completely.

23 The deponent is Rick
24 Shaheen.

1 Counsel will be noted on the
2 stenographic record.

3 The court reporter is
4 Michelle Gray and will now swear
5 in the witness.

6 - - -

7 ... RICHARD SHAHEEN, having
8 been first duly sworn, was
9 examined and testified as follows:

10 - - -

11 EXAMINATION

12 - - -

13 BY MR. HARRIS:

14 Q. Good morning, Mr. Shaheen.
15 We just met a moment ago off the record.
16 But my name is Joshua Harris, and I
17 represent the plaintiffs in this matter,
18 Lake and Trumbull Counties. How are you
19 doing?

20 A. I'm doing well. How about
21 you?

22 Q. Doing well. Thank you.
23 So we'll start with your
24 deposition here in a moment, but I want

1 to cover a couple things before we do.

2 It's my understanding that our firm has
3 mailed you a binder full of exhibits that
4 we'll use throughout the day. Do you
5 have that binder available?

6 A. I do.

7 Q. Okay. And I believe it was
8 either taped or sealed in some manner.
9 Is it still sealed or taped in the manner
10 you received it?

11 A. It is.

12 Q. Okay. So you haven't looked
13 at anything in there before I tell you to
14 open it this morning or this afternoon,
15 correct?

16 A. Correct.

17 Q. Okay. Perfect. Thank you.

18 Have you ever been deposed
19 before?

20 A. I have.

21 Q. How many times?

22 A. Only a couple times.

23 Q. Okay. Well, just a quick
24 kind of preview. You know, this is a

1 simple question-and-answer thing. It's
2 not supposed to be painful like a
3 trepanation or a root canal or anything
4 like that. The only thing I ask is that
5 you answer the questions honestly. Are
6 you okay with that?

7 A. I am.

8 Q. Okay. The only other kind
9 of ground rule I want to establish is
10 that if you do answer a question, I'm
11 going to assume you understood the
12 question. Does that make sense?

13 A. It does.

14 Q. Okay. Basically if you
15 don't understand what I'm asking, let me
16 know, and I'll see if I can't rephrase
17 it. Sound good?

18 A. Okay.

19 Q. All right. So let's go
20 ahead and get started. Will you go ahead
21 and state your full name for the record,
22 please.

23 A. Richard Shaheen.

24 Q. Mr. Shaheen, where are you

1 currently employed?

2 A. Giant Eagle.

3 Q. What is your title with

4 Giant Eagle?

5 A. I am the pharmacy security

6 manager.

7 Q. How long have you held that

8 title?

9 A. Since August 2020.

10 Q. When did you first join

11 Giant Eagle?

12 A. November 2013.

13 Q. And just to lay some

14 background, Giant Eagle owns HBC; is that

15 correct?

16 A. They did.

17 Q. They did, okay. And they no

18 longer do, is that correct?

19 A. No. They still have HBC.

20 They have a warehouse.

21 Q. Okay. All right. All

22 right. So what was your position when

23 you started in November of 2013 with

24 Giant Eagle?

1 A. I was hired as a pharmacy
2 investigator.

3 Q. What kind of duties or
4 responsibilities did you have in that
5 capacity?

6 A. We were handling cameras,
7 meaning video review of cameras,
8 installing cameras, locks, security. In
9 a pharmacy, we were involved with the
10 gates and for security purposes we also
11 handled internal, external
12 investigations.

13 We would assist in other
14 loss prevention needed areas in addition
15 to anything I was doing in a pharmacy
16 area.

17 Q. Okay. When you mentioned
18 gates, do you mean gates for -- well, let
19 me back it up.

20 What is Giant Eagle overall?

21 A. Giant Eagle is a grocery
22 chain. It also has GetGos, which are
23 convenience stores, and it also has
24 numerous pharmacies within their --

1 within their grocery chain.

2 Q. Are the pharmacies located
3 within the grocery stores or is there
4 standalone buildings as well?

5 A. I'm sorry. I missed the
6 first half.

7 Q. Sure. Are the pharmacies
8 located within the grocery stores, or are
9 there standalone buildings?

10 A. No. They're within. We
11 have one standalone.

12 Q. Okay. And when you
13 mentioned gates earlier for security, is
14 that related to the Giant Eagle store in
15 a whole or just the pharmacy area?

16 A. The barricades in the
17 pharmacy.

18 Q. Okay. You said that you are
19 now currently the pharmacy security
20 manager. What are your responsibilities
21 in that position?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: Well, it's
24 still relatively the same. We

1 have added two other individuals
2 who are also working in the
3 pharmacy department. I have two
4 pharmacy investigators currently.

5 BY MR. HARRIS:

6 Q. Are those the two
7 individuals that you added?

8 A. Yes.

9 Q. What are their names?

10 A. Andrew Gaus.

11 Q. Is that G-A-U-S-E?

12 A. G-A-U-S.

13 Q. Okay. Thank you. The other
14 one?

15 A. Sam Muhieddin.

16 Q. Okay. What did you do
17 before you joined Giant Eagle?

18 A. I was with the Pennsylvania
19 Office of the Attorney General. I was an
20 agent with the office.

21 Q. Did you do investigations
22 during that role as well?

23 A. I did.

24 Q. Did you ever do

1 investigations into controlled
2 substances?

3 A. I did investigations into
4 pharmacies and into doctors.

5 Q. Can you provide me a little
6 more detail on that? What was the scope
7 of some of those investigations?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: Independent
10 pharmacies were, in general,
11 filling out prescriptions without
12 proper authorization from doctors.

13 Same thing with physicians.
14 Physicians either practicing
15 outside the scope, fraudulently
16 billing Medicare, Medicaid, those
17 types of claims, white collar type
18 of investigations involving
19 practitioners.

20 BY MR. HARRIS:

21 Q. You mentioned independent
22 pharmacies were in general filling
23 prescriptions without proper
24 authorizations. Did you ever investigate

1 chain pharmacies?

2 A. We didn't have that problem
3 with chain pharmacies.

4 Q. Do you believe that problem
5 exists with chain pharmacies?

6 A. Not that I'm aware of.

7 Q. Okay. Have you ever
8 investigated that issue inside Giant
9 Eagle in your time working for them?

10 A. No.

11 MR. KOBRIN: Object to form.

12 BY MR. HARRIS:

13 Q. I'm sorry. It cut out a
14 little bit. Can you repeat that?

15 MR. KOBRIN: Yeah, just --

16 Rick, just make sure that you give
17 me a moment to object just in
18 case.

19 BY MR. HARRIS:

20 Q. Do you want me to repeat my
21 question, Mr. Shaheen?

22 A. Please.

23 Q. Okay. Have you ever
24 investigated that issue, meaning filling

1 prescriptions without the proper
2 authorization inside Giant Eagle in your
3 time working for them?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I didn't hear
6 you. I didn't hear you.

7 MR. KOBRIN: I just said
8 object to form. You can -- you
9 can still answer the question.

10 THE WITNESS: Oh, okay.

11 Yes, I did investigate --
12 I'm just referring back to a case,
13 yes.

14 BY MR. HARRIS:

15 Q. Okay. Can you provide me a
16 little bit of detail on that
17 investigation?

18 A. Patient was fraudulently
19 making up and filling -- making up their
20 own prescriptions. I was alerted by our
21 pharmacist, and we then subsequently
22 contacted the appropriate law enforcement
23 agency, and an arrest was made.

24 Q. During the course of your

1 investigation into that patient, did you
2 ever learn if any of their fraudulent
3 scripts were filled?

4 A. I would have to look on the
5 documents. I do believe -- I do believe
6 a couple of the scripts were filled
7 though.

8 Q. Those would have been filled
9 by Giant Eagle pharmacists?

10 A. It would have been filled by
11 Giant Eagle pharmacists. But once
12 they -- once they realized a prescription
13 through their due diligence, they
14 contacted me immediately and then we
15 began our case investigation.

16 Q. Okay. After they filled the
17 fraudulent prescriptions?

18 A. I'm sorry?

19 Q. They contacted you after
20 they filled several fraudulent
21 prescriptions?

22 MR. KOBRIN: Object to form.

23 Facts not in evidence.

24 BY MR. HARRIS:

1 Q. You can go ahead and answer,
2 Mr. Shaheen.

3 A. I don't know that.
4 Sometimes what happens is if a pharmacy
5 down the street or another pharmacy has
6 said, "Hey, there's individuals going
7 around attempting to pass scripts," then
8 I would be notified by our people, and
9 they would at that point, if they tried
10 to attempt to pass a script at our
11 pharmacy, we would -- we would certainly
12 try to get these individuals arrested or
13 contact law enforcement.

14 Q. Okay. Well, this is a
15 preview. We'll be talking about some
16 investigations throughout the day. So
17 we'll table this for now. But I may
18 refer back to it later on. Sound good?

19 A. Yep.

20 Q. Okay. Let me ask you some
21 baseline questions before we dig in much
22 deeper. Do you agree that addiction can
23 start with prescription substances?

24 MR. KOBRIN: Object to form.

1 No foundation.

2 You can answer, Rick.

3 THE WITNESS: Repeat the

4 question, please.

5 BY MR. HARRIS:

6 Q. Sure. Do you agree that

7 addiction can start with prescription

8 substances?

9 MR. KOBRIN: Same objection.

10 THE WITNESS: I am not a

11 licensed pharmacist or a

12 physician. I don't think I'm

13 adequately able to answer that

14 question.

15 BY MR. HARRIS:

16 Q. Okay. How long were you an

17 investigator for the Pennsylvania AG's

18 office?

19 A. 26 years.

20 Q. I'm not going to ask you for

21 an exact number. But roughly how many

22 pharmacies or doctors did you investigate

23 in that 26-year period?

24 A. I don't have an exact

1 number. But I've investigated them.

2 Q. Would you say it's a
3 significant amount?

4 A. What do you mean by
5 significant? I mean, what do you mean by
6 significant amount?

7 Q. Sure. Let's say more than
8 50.

9 A. No.

10 Q. Less than 50?

11 A. Oh, yeah.

12 Q. Okay. More or less than 25?

13 A. Not sure.

14 Q. Okay. Did you ever do any
15 independent research when you were
16 investigating these pharmacies to see
17 what the affect of prescription drugs may
18 be on people who are illegally obtaining
19 them?

20 A. No. That information was
21 provided -- any type of that information
22 would have been done by a practitioner,
23 whether it be a pharmacist or a doctor.

24 Q. So during your 26 years of

1 investigating, you never did any
2 independent research into these
3 pharmacies?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: No.

6 BY MR. HARRIS:

7 Q. Do you believe prescription
8 drugs can be dangerous?

9 A. I think any drug can be
10 dangerous if it's not taken in the
11 prescribed manner.

12 Q. Including prescription
13 drugs?

14 A. Any drug.

15 Q. Okay. I appreciate that,
16 but my question is more narrow.

17 For prescription drugs, they
18 can be dangerous, correct?

19 MR. KOBRIN: Objection.

20 THE WITNESS: Any drug can
21 be dangerous.

22 BY MR. HARRIS:

23 Q. Including prescription
24 drugs?

1 A. Any drug taken outside the
2 normal course can be dangerous to an
3 individual.

4 Q. Outside the normal course of
5 what?

6 A. The directions.

7 Q. Okay. So Vicodin can be
8 dangerous?

9 A. Any drug taken outside that
10 normal course or how it's prescribed can
11 be dangerous.

12 Q. So the answer to my question
13 is yes?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Yes.

16 BY MR. HARRIS:

17 Q. Okay. Oxycodone can be
18 dangerous?

19 A. Once again, any -- any drug
20 taken outside the normal course or how it
21 is prescribed can be dangerous.

22 Q. Okay. Mr. Shaheen, I sense
23 there is a question that you're really
24 wanting to answer. So let me ask it for

1 you.

2 Can any drug taken outside
3 the normal course of how it is
4 prescribed, can that be dangerous?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: Okay. Please
7 repeat again.

8 BY MR. HARRIS:

9 Q. Absolutely. Can any drug
10 taken outside the normal course of how it
11 is prescribed be dangerous?

12 A. It can be.

13 Q. Okay. Great. Now that
14 we've established that, I appreciate your
15 clarity, but we may not need to repeat it
16 after every time.

17 So going back to my
18 question, is oxycodone, can that be
19 dangerous?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: If taken
22 outside that normal course.

23 BY MR. HARRIS:

24 Q. If taken outside the normal

1 course, then yes.

2 A. It can be.

3 Q. Okay. Can hydrocodone be

4 dangerous?

5 A. If that drug is taken

6 outside the normal course of how it's

7 prescribed, it can be.

8 Q. What about alprazolam?

9 A. If any drug taken outside

10 the normal course, it can be dangerous.

11 Q. Okay. Would you also agree

12 that prescription drugs are the drug type

13 most abused by middle school children?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Yes. Middle

16 school kids can abuse -- middle

17 school kids can abuse medications.

18 BY MR. HARRIS:

19 Q. Again, that wasn't exactly

20 my question. So I'm going to repeat it.

21 I'm going to ask that you listen closely.

22 Okay?

23 My question was, do you

24 agree that prescription drugs are the

1 drug type most abused by middle school
2 children?

3 A. Well, I, again, have to look
4 at statistics. Had it been that way?
5 Yes, it could have been that way during
6 time periods.

7 Q. Okay. Do you agree that
8 prescription drugs are abused by middle
9 school children more so than marijuana?

10 MR. KOBRIN: Object to form.
11 Foundation.

12 THE WITNESS: It is -- it is
13 possible, yes.

14 BY MR. HARRIS:

15 Q. How would you confirm that
16 fact?

17 MR. KOBRIN: Object to form.
18 You asked him if he agreed.

19 MR. HARRIS: Well, then
20 he -- then he said it was
21 possible. So I'm now asking him,
22 if it is possible, how would he
23 confirm that.

24 MR. KOBRIN: I object to

1 form. I don't think that
2 correlates. The witness said
3 something is certainly possible
4 that you're --

5 MR. HARRIS: Okay.

6 BY MR. HARRIS:

7 Q. All right. Mr. Shaheen, do
8 you understand my question?

9 MR. KOBRIN: I just want to
10 finish.

11 But he would have knowledge
12 or understand how to confirm
13 something that he had conceded was
14 possible.

15 MR. HARRIS: Okay. You've
16 stated your objection. We
17 appreciate it.

18 BY MR. HARRIS:

19 Q. Mr. Shaheen, do you
20 understand my question?

21 A. Yes.

22 Q. Okay. How would you find
23 out if middle school children abused
24 prescription drugs more than they do

1 marijuana?

2 MR. KOBRIN: Object to form.

3 Facts not in evidence.

4 THE WITNESS: Again, from --

5 from things that you read or

6 visiting a school where you have

7 been told information is shared

8 like that. So those are some of

9 the sources.

10 BY MR. HARRIS:

11 Q. When we first started I

12 mentioned that binder that our firm had

13 shipped to you.

14 If you can go ahead and grab

15 that. I think the protocol requires that

16 you open that seal on camera. So do you

17 have something that you're able to open

18 it with handy?

19 A. Yeah, I have some scissors.

20 Q. Okay. Great. If you'll go

21 ahead and open that binder for me, but if

22 you'll show me the seal first before you

23 cut it open, I'd appreciate that.

24 A. Okay. I mean, it's sealed

1 by tape. So --

2 Q. Okay. That is very -- I
3 don't know who sealed that. But they did
4 a very good job. Okay. Well, if you
5 need to take a moment to get that
6 unsealed, I understand if you want to go
7 ahead and do that real fast.

8 MR. KOBRIN: Hey, Josh.

9 MR. HARRIS: Yes, sir.

10 MR. KOBRIN: I have two
11 boxes. I just opened the
12 Chunderlik one. I'm going to open
13 the other one now, Just so you
14 know.

15 MR. HARRIS: Yeah, we can
16 address how to handle that. We'll
17 e-mail about it later.

18 MR. KOBRIN: Yeah, I'm going
19 to seal it up again. It says
20 Chunderlik. There's a piece of
21 paper that just says Chunderlik on
22 it.

23 MR. HARRIS: Okay.

24 MR. KOBRIN: Well, it says

1 "Do not open until Monday
2 9:00 a.m." But it doesn't say
3 Chunderlik on the outside.
4 MR. HARRIS: Okay. Well --
5 but he's set for Monday. Okay.
6 Well, I trust with your
7 representation that you won't look
8 at it before Monday.

9 MR. KOBRIN: I'm just
10 letting you know. I have two
11 boxes that look exactly the same.

12 MR. HARRIS: Understood.
13 Understood.

14 BY MR. HARRIS:

15 Q. Mr. Shaheen, we'll -- okay.
16 There's the binder with the seal. You
17 can go ahead and cut that. What I will
18 ask, though, is that you will not open up
19 a tab until I refer or direct you to that
20 tab. Okay?

21 A. Okay.

22 MR. KOBRIN: You sealed them
23 in here too. Slick.

24 Can I open the binder?

1 MR. HARRIS: Yeah,
2 absolutely. That's going to be
3 useful today.

4 MR. KOBRIN: Yeah, so that's
5 probably sealed on the other one
6 too.

7 MR. HARRIS: I imagine so.
8 So I doubt it will be a problem on
9 Monday.

10 BY MR. HARRIS:

11 Q. Mr. Shaheen, throughout the
12 day if you need a restroom break or water
13 break at any time, please let me know.
14 You know, we're entitled to seven hours
15 on the record. My hope is to not take
16 that full time, so we're not in any rush
17 at all. So just let me know. Okay?

18 A. Very good. Thank you.

19 MR. HARRIS: And then, Josh,
20 whenever you've got your box
21 unsealed, let me know.

22 MR. KOBRIN: I have it.
23 There's only one binder?

24 MR. HARRIS: Yes, only one

1 binder for Mr. Shaheen.

2 BY MR. HARRIS:

3 Q. All right. Mr. Shaheen, if
4 you'll go ahead and open your binder to
5 Tab 1. We're going to introduce this as
6 the first exhibit.

7 (Document marked for
8 identification as Exhibit
9 Shaheen-1.)

10 MR. HARRIS: This is going
11 to be Shaheen-1. And this was
12 produced with a stamp P-GEN-00147.

13 BY MR. HARRIS:

14 Q. Let me know when you get to
15 that tab.

16 A. Okay.

17 Q. All right. Do you see the
18 top left -- and I believe it'll be on
19 your screen as well, if it's easier to
20 refer to it in that form.

21 Up on the top left, it says
22 "Trib Live."

23 Do you see that?

24 A. I do.

1 Q. Okay. Are you familiar with
2 this publication?

3 A. I -- yes, I am familiar with
4 it.

5 Q. Okay. Is it a publication
6 that's in Pennsylvania?

7 A. Yes.

8 Q. And then if we look at the
9 title of this, it says, "Heroin's
10 popularity goes up in Monroeville." And
11 it's dated Wednesday, November 28, 2012.

12 Do you see that?

13 A. I do.

14 Q. All right. Where is
15 Monroeville, if you know?

16 A. It's outside of Pittsburgh,
17 ten miles or so.

18 Q. All right. And
19 November 28th, 2012, that would have been
20 when you were investigator for -- excuse
21 me, an agent for the Philadelphia AG's
22 office, correct?

23 A. No.

24 Q. Okay. What were you doing

1 November 2012?

2 A. No, I wasn't with the
3 Philadelphia AG's office. That's --

4 Q. Oh, I'm sorry. The
5 Pennsylvania AG's office.

6 A. Yes.

7 Q. I apologize. Let me re-ask
8 that.

9 So as of November 28th,
10 2012, you were employed as an agent by
11 the Pennsylvania Attorney General's
12 office?

13 A. Correct.

14 Q. Okay, great. Do you
15 remember this article being published by
16 any chance?

17 A. I do remember this article
18 being published.

19 Q. Okay. Let's look at this
20 picture they have here printed on the
21 first page.

22 A. Mm-hmm.

23 Q. Do you see what's on that
24 table?

1 A. I do.

2 Q. Okay. Would you agree
3 that's bricks of heroin?

4 A. This -- this picture was --
5 was not where -- I was going around and
6 doing presentations at schools. So I
7 don't know where this picture is or was,
8 okay. Yeah, I don't know the picture.

9 Q. Okay. Let's read the
10 caption under it then. It says,
11 "Monroeville detectives and other local,
12 state, and federal agencies seized 2,000
13 bricks of heroin, which represent a
14 street value of \$550,000 to \$700,000
15 through a joint investigation in 2009 and
16 2010."

17 Did I read that properly?

18 A. Yes.

19 Q. Okay. So based on the
20 description, you can agree that it's
21 bricks of heroin, right?

22 MR. KOBRIN: Object to form.

23 You can agree to what the caption
24 says. I'm not going to let him

1 agree to what --

2 MR. HARRIS: Okay. Well,
3 Josh, I'm going to ask that you
4 object to form and not instruct
5 the witness in between questions.

6 MR. KOBRIN: I'm not
7 instructing the witness. I'm
8 telling you what I'll allow him to
9 agree.

10 THE WITNESS: That -- yeah.

11 BY MR. HARRIS:

12 Q. So, Mr. Shaheen, you agree?

13 A. The -- yeah, to the wording
14 and what the picture -- yes.

15 Q. Okay. And heroin is a type
16 of opioid; is that correct?

17 A. Yes.

18 Q. Okay. Let's go ahead and
19 read the first sentence, just to get kind
20 of familiarized with this article.

21 It says, "As heroin
22 becomes" -- excuse me.

23 It reads, "As heroin has
24 become more potent and more accessible in

1 the Pittsburgh area, paramedics and
2 police in Monroeville have found
3 themselves increasingly dealing with
4 overdoses and crimes related to the
5 opiate."

6 Did I read that correctly?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: Yes.

9 BY MR. HARRIS:

10 Q. Let's read the next
11 sentence. "Heroin-related deaths in
12 Allegheny County increased from 62 in
13 2008 to 95 in 2011, according to the
14 Office of Allegheny County Medical
15 Examiner," correct?

16 A. Yes.

17 Q. Let's go ahead and turn to
18 Page 2. If you go about three-quarters
19 of the way down, there's a sentence that
20 says, "Heroin addiction takes hold
21 quickly."

22 Do you see that?

23 A. I do.

24 Q. Okay. Right after that, it

1 says, "'It's easily addictive after a
2 couple doses,' said Dr. Tim Muchnok,
3 staff physician in the emergency room at
4 Forbes Regional Hospital in Monroeville."

5 Do you see that?

6 A. I do.

7 Q. All right. And the last
8 part, "'Heroin is one of the most
9 addictive medications out there,'"
10 correct?

11 MR. KOBRIN: Object to form.

12 BY MR. HARRIS:

13 Q. Is that what that says,
14 Mr. Shaheen?

15 A. That's what -- that's what
16 that says.

17 Q. Okay. Were you aware of
18 this information when you were an agent
19 with the Pennsylvania AG's office?

20 A. I didn't do any heroin or
21 investigations with any illicit drugs,
22 okay.

23 Q. Okay. My question was, if
24 you were aware that heroin was addictive.

1 A. And -- well, yeah, that's --
2 I was -- and based on -- based on
3 investigations, yes. Do I -- have I
4 heard or have knowledge that heroin is
5 addictive? Yes.

6 Q. Let's turn to the third page
7 of this article, the section that starts
8 off saying, "Gateway Rx."

9 A. Okay.

10 Q. Were you able to find that
11 spot?

12 A. Yes.

13 Q. Do you understand Rx to mean
14 prescription?

15 A. We use it synonymously. We
16 use it as pharmacy. We use it as
17 prescription.

18 Q. Okay. So prescription is at
19 least one of the ways that you would read
20 Rx?

21 A. Yes.

22 Q. All right. Let's go ahead
23 and read this first sentence. "For many,
24 the addiction starts with prescription

1 drugs, such as Vicodin and OxyContin,
2 that contain the same narcotic found in
3 heroin, said Richard Shaheen, senior
4 supervisory special agent for the
5 Pennsylvania Attorney General."

6 Do you see where it says
7 that?

8 A. I do.

9 Q. And is that Richard Shaheen,
10 is that you?

11 A. That's me.

12 Q. Okay. So do you agree that
13 addiction starts with prescription drugs
14 for many people?

15 A. It is possible that -- yes,
16 to your question, it is possible.

17 Q. Well, you didn't say it's
18 possible in this interview in 2012; is
19 that correct?

20 MR. KOBRIN: Object to form.

21 This isn't a quotation here.

22 THE WITNESS: I am saying it
23 is possible.

24 BY MR. HARRIS:

1 Q. Okay. Let's go ahead and
2 continue.

3 "Prescription drugs have
4 overtaken marijuana as the drug type most
5 often abused by middle school students,
6 said Shaheen, who specializes in
7 community outreach programs aimed at
8 middle school and high school students."

9 Did I read that correctly?

10 A. You did read that, yes.

11 Q. Okay. Do you agree that
12 prescription drugs at that time had
13 overtaken marijuana as the drug type most
14 often abused by middle school students?

15 A. Based on information that we
16 have received during that time period in
17 question that you're referring to, that
18 was the information we would have
19 received when we go out to schools to
20 share information with parents.

21 Q. So the simple answer to my
22 question is yes?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: When I did

1 outreach, oftentimes when I got
2 called into schools, parents, law
3 enforcement, and whoever we were
4 meeting with at the time would
5 share that information, provide
6 that information, and we would
7 share that information to the
8 group who we were addressing.

9 BY MR. HARRIS:

10 Q. You wouldn't share
11 information you believed to be wrong; is
12 that right?

13 A. I would not share
14 information that I believed to be wrong.

15 Q. Okay. So based on the
16 information that you would have received
17 in 2012, do you agree that prescription
18 drugs at that time had overtaken
19 marijuana as the drug type most often
20 abused by middle school students?

21 A. Oftentimes is -- like I
22 said, if I went to a school and I was
23 provided information, what is happening
24 in that particular area, I would share

1 that information that is provided to me.

2 So in Monroeville or that
3 general area, if I was given that
4 information, that's the information that
5 I would share.

6 Q. Would that be the same
7 information that you believed?

8 A. If it's -- if it's provided
9 to me in an accurate manner -- if it was
10 provided to me in an accurate manner.

11 Q. If it was provided to you in
12 an accurate manner then, yes, it would be
13 information that you believe?

14 A. It's what I believed from
15 law enforcement, from parents in that
16 community who was sharing that
17 information to me.

18 Q. So if it was provided to you
19 by law enforcement, that would lend it
20 some more credibility?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: I don't
23 believe law enforcement would
24 provide me with false information,

1 nor would I think the parents
2 provide me with the false
3 information.

4 BY MR. HARRIS:

5 Q. Okay. Let's continue down a
6 little bit further. Do you see the
7 sentence that starts with, "Once someone
8 begins"?

9 It says, "Once someone
10 begins using prescription opiates, the
11 jump to heroin simply is a matter of
12 economics, some experts say." Then the
13 line after that says, "Penn Hills Police
14 Chief Howard Burton said the demand for
15 heroin is fueled by the fact it's cheaper
16 than prescription drugs."

17 Do you see where it says
18 that?

19 A. I do.

20 Q. So you don't believe Penn
21 Hills Police Chief Howard Burton would
22 provide false information, right?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: I don't

1 believe he would --

2 BY MR. HARRIS:

3 Q. You can go ahead,

4 Mr. Shaheen.

5 A. I don't believe that he

6 would provide false information.

7 Q. All right.

8 MR. HARRIS: You can close

9 that section of the binder. We've

10 got some other topics that we'll

11 cover.

12 BY MR. HARRIS:

13 Q. So when you left the

14 Pennsylvania AG's office in 2013, how did

15 you come to be employed by Giant Eagle?

16 A. Yes. I left in -- in 2013.

17 My office was located near a Giant Eagle

18 pharmacy. We got a call from Giant Eagle

19 pharmacist who started to identify a

20 problem with a particular physician. And

21 they contacted me and the diversion unit.

22 I believe they also contacted DEA.

23 We started an investigation,

24 subsequently arrested the doctor.

1 And they asked for my
2 résumé, and I gave them my résumé. And
3 they sent it over to the director of loss
4 prevention and he called me up, and we
5 started to talk about a possible position
6 with Giant Eagle. And I subsequently got
7 hired maybe a year later in 2013.

8 Q. In 2013, when you were
9 hired, was there any training for your
10 position that you received?

11 A. Yes.

12 Q. Do you remember what that
13 training entailed?

14 A. I -- somewhat. I worked
15 with pharmacy district leaders. They
16 would take me out, and, you know, we
17 would go into the pharmacies. They would
18 explain things, how it was, you know, how
19 pharmacy progression was moving.

20 I also went with the loss
21 prevention representatives, started to
22 get educated on the cameras, started to
23 get educated on the locks, who do we call
24 about things. You know, panic alarms,

1 that was another thing is, you know,
2 working on the panic alarms, showing me
3 where they were located, how we utilize
4 things like that.

5 And then I also met with
6 some people that were in the, you know,
7 pharmacy, the background workers, if you
8 will, and show me some of the software
9 programs and things that they were using.

10 And then started to forge my
11 own path to do what I do.

12 Q. Did you kind of create your
13 position, or did it exist before you got
14 there?

15 A. It did not exist before I
16 got there.

17 Q. If I'm not mistaken, and
18 please correct me if I am, when you were
19 first hired, what was -- what was the
20 title when you were first hired?

21 A. Pharmacy investigator.

22 Q. Okay. So there were no
23 pharmacy investigators pre-2013 that
24 you're aware of hired by Giant Eagle?

1 A. Not by title. Now, they did
2 have the loss prevention representative
3 who would go into the stores and help
4 wherever was needed, whether it was
5 grocery, whether it was pharmacy, or
6 whether it was our GetGos.

7 Q. So loss prevention in that
8 fashion, is that more related to making
9 sure that the Giant Eagle company doesn't
10 lose money based on loss?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: Yeah, can you
13 repeat that?

14 BY MR. HARRIS:

15 Q. Sure. You mentioned that
16 there were loss prevention
17 representatives, correct?

18 A. Yes.

19 Q. But that wasn't solely just
20 for the pharmacies, rather it was for the
21 entire Giant Eagle store as a whole,
22 right?

23 A. Yes. But it included
24 pharmacy.

1 Q. Okay. Fair enough. It
2 includes pharmacies. Was their primary
3 goal to prevent loss so that the company
4 would not lose money?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: Well, there is
7 a lot of goals. I mean, they were
8 doing safety. You know, like I
9 told you, when I talk about
10 safety, you know, you're talking
11 about, you know, camera coverage,
12 you are talking about the alarms,
13 you are talking about checking
14 valves and everything that's
15 functional in a store, making sure
16 that -- you know, and keeping up
17 to date with state and federal
18 regulations.

19 You know, if there was an
20 issue that there was some type of
21 loss, they would investigate that
22 loss, whether it was pharmacy,
23 whether it was grocery side,
24 whether it was cash, whether it

1 was product.

2 BY MR. HARRIS:

3 Q. Okay. You mentioned that
4 part of the training would detail state
5 and federal regulations. When you were
6 being trained as a pharmacy investigator,
7 were you made aware of any state or
8 federal regulation that would apply to
9 what you were investigating?

10 A. Well, you know I didn't --
11 that's kind of -- to me that's a vague
12 question. So if I'm doing an
13 investigation, can you be maybe more
14 specific, and I can answer that question
15 more directly? That was kind of vague to
16 me.

17 Q. Absolutely. I would love
18 the right answers.

19 When you were trained at
20 Giant Eagle, were there any statutes,
21 either state or federal, that you were
22 made aware of that would apply to your
23 investigations of pharmacies?

24 A. They had all kind of

1 statutes and litigations. There was
2 procedures, policies, you know, that we
3 had to adhere to no matter what we were
4 doing, whether it was me doing an
5 investigation, or our pharmacies, you
6 know, providing medications and, you
7 know, receiving, shipping, dispensing.
8 Yes.

9 Q. Are you familiar with the
10 Controlled Substances Act?

11 A. Yes, I'm familiar.

12 Q. What's your level of
13 familiarity with the Controlled
14 Substances Act?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: Again, I need
17 you to be more specific to that.

18 BY MR. HARRIS:

19 Q. Sure. Well, you just said
20 that you had to know statutes that were
21 related to your pharmacies providing
22 medications, receiving, shipping and
23 dispensing those, yes.

24 Are you referring to the

1 Controlled Substance Act when you
2 mentioned those elements?

3 A. Well, that's -- mostly I'm
4 mentioning to the procedures that we had
5 in place.

6 Q. Okay. Do you understand the
7 Controlled Substance Act is the law that
8 regulates the legitimate distribution
9 chain of controlled substances?

10 A. I'm not familiar --

11 Q. With what?

12 A. -- with the last portion of
13 your question.

14 Q. Okay. Do you know -- do you
15 know what the legitimate distribution
16 chain of controlled substances is?

17 A. I don't -- no, I would
18 need -- no, I don't.

19 Q. Okay. Let's walk through it
20 then.

21 Giant Eagle does not make
22 their controlled substances, do they?

23 A. No.

24 Q. All right. Are you familiar

1 with the term "manufacturers"?

2 A. Yes.

3 Q. Okay. And you know, since
4 this case is revolving around opioids, my
5 questions are going to be primarily about
6 opioid products. There may be some
7 documents we look at that have non-opioid
8 products. But just so you know, that's
9 kind of what I'm focusing on. Does that
10 make sense?

11 A. Yes.

12 Q. Okay. All right. So opioid
13 manufacturers would be companies like
14 Purdue or Johnson & Johnson or Allergan.

15 Are you familiar with those
16 companies?

17 A. Yes.

18 Q. Okay. And you understand
19 those companies to make opioids, correct?

20 A. They -- yes.

21 Q. All right. And once those
22 are made, they often go to what's called
23 a distributor. Have you ever heard the
24 term distributor?

1 A. Yes.

2 Q. Okay. Those would be
3 companies like McKesson and
4 AmerisourceBergen and Cardinal Health,
5 and there's companies like Anda. Are you
6 familiar with those companies?

7 A. Yes.

8 Q. All right. What a
9 distributor often does is, once they get
10 the pills, the opioids, from the
11 manufacturers, they will distribute them
12 to chain pharmacies, wholesale
13 pharmacies, retail pharmacies, and the
14 like. Are you familiar with that
15 process?

16 A. Yes.

17 Q. Okay. And in that chain --
18 excuse me, in that way, as a pharmacy,
19 you would agree that Giant Eagle is a
20 wholesaler, correct?

21 MR. KOBRIN: Object to the
22 form.

23 THE WITNESS: We only -- we
24 only provide for our own stores.

1 BY MR. HARRIS:

2 Q. Okay. Fair enough. So you
3 only provide -- so you only get pills for
4 your own pharmacies; is that right?

5 A. Correct.

6 Q. Do you get your pills
7 directly from the distributors?

8 MR. KOBRIN: Are we using
9 pills now to include all opioids
10 or --

11 MR. HARRIS: Okay. Fair
12 enough.

13 BY MR. HARRIS:

14 Q. Let me re-ask that question.

15 A. Yeah.

16 Q. Do you receive all of your
17 opioids from distributors?

18 A. When you're referring to --
19 what are you referring to as
20 distributors?

21 Q. The companies that I just
22 mentioned. You indicated that you
23 understood so far where we were in the
24 legitimate distribution chain.

1 Distributors would be companies such as
2 McKesson and Anda. Do you know if Giant
3 Eagle received opioids from companies
4 like McKesson and Anda?

5 A. Yes, we received some of
6 them from them.

7 Q. Okay. You said some. Where
8 do you receive the rest of your opioids
9 from?

10 A. Giant Eagle has a vault in
11 our warehouse, in one of our warehouses.

12 Q. Okay. But once you receive
13 the opioids from either your vault or the
14 distributors, and then it goes to the
15 Giant Eagle pharmacies; is that correct?

16 A. Correct.

17 Q. From the Giant Eagle
18 pharmacies, that's where customers come
19 in, provide their prescription, and get
20 it filled by the Giant Eagle pharmacist,
21 correct?

22 A. Correct.

23 Q. All right. So going back to
24 the Controlled Substance Act -- and I may

1 refer to it as CSA, but if you need me to
2 clarify what I mean by that, let me know.

3 So going back to the
4 Controlled Substance Act, do you now
5 understand that that is the law that
6 regulates the legitimate distribution
7 chain of controlled substances, including
8 opioids?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: I do
11 understand.

12 BY MR. HARRIS:

13 Q. Okay. All right. Are you
14 familiar with the term "closed system of
15 distribution"?

16 A. No.

17 Q. Okay. A closed system of
18 distribution is when opioids are
19 distributed within the lawful parameters,
20 meaning -- of the Controlled Substance,
21 Act, meaning it goes from manufacturer to
22 distributor to pharmacy to customer.

23 Does that make sense?

24 MR. KOBRIN: Object to form.

1 THE WITNESS: Yes.

2 BY MR. HARRIS:

3 Q. So with that understanding
4 of what a closed system is, do you agree
5 that a closed system should reduce --
6 well, let me -- let me strike that.

7 Do you -- have you ever
8 heard of the term "diversion"?

9 A. In what term? I don't know
10 what you're referring to, so no.

11 Q. Okay. Related to the
12 Controlled Substance Act, have you ever
13 heard diversion of controlled substances?

14 A. Oh, I'm sorry. I
15 misunderstood.

16 Diversion? Have I ever
17 heard the term "diversion"?

18 Q. Yes, sir. What do you --

19 A. Yes.

20 Q. Sorry. What do you
21 understand diversion to mean?

22 A. Well, if you're referring to
23 medications not going to a -- from a
24 warehouse to a pharmacy, that medication

1 ended up somewhere else.

2 So if that's what -- because
3 that's a broad stroke what you're asking.
4 Diversion can be, you know, other things.

5 But, you know, in general,
6 if you're talking about a warehouse that
7 didn't deliver the medications and
8 allegedly they sent it, and it didn't
9 make it there.

10 Q. Okay. That's one example of
11 diversion. Let's talk about diversion
12 with pharmacies. You agree that theft of
13 controlled substances can contribute to
14 diversion, correct?

15 A. Did you say theft?

16 Q. Yes, sir, I did.

17 A. Yes, it can.

18 Q. You agree selling controlled
19 substances without a valid prescription
20 would contribute to diversion, correct?

21 A. Yes. That can happen, yes.

22 Q. Okay. And in your time
23 investigating with the Pennsylvania AG's
24 office and in your time as a pharmacy

1 investigator with Giant Eagle, do you
2 believe it's a good thing to prevent
3 diversion?

4 A. I think we do a great job at
5 preventing -- at Giant Eagle at
6 preventing any type of diversion. I'm
7 very confident in our -- in what we do.

8 Q. Okay. I'm glad to hear
9 that, but that wasn't my exact question.
10 So let me go ahead and re-ask it for you.

11 Do you, Richard Shaheen,
12 believe it's a good thing to prevent
13 diversion?

14 A. And that's what I'm saying..
15 I think we do.

16 Q. Mr. Shaheen, that's not my
17 question. So today is going to go a lot
18 more smoothly if you listen to my
19 question and answer my question. Okay?

20 I'm going to ask it one more
21 time?

22 Do you believe it's a good
23 thing to prevent diversion?

24 A. I think we do that very well

1 at Giant Eagle. That's my answer to you.

2 Q. We are going to go through
3 what Giant Eagle does throughout today.
4 So I assure you that you'll have more
5 opportunities to ask that. I'm not
6 asking you what Giant Eagle does or does
7 not do related to diversion.

8 I'm asking you, do you
9 believe it is good and important to
10 prevent diversion?

11 A. We have --

12 Q. It's a simple yes or no
13 question, Mr. Shaheen. Is it good to
14 prevent diversion?

15 A. I believe what we have and
16 what we put in place and what we have at
17 Giant Eagle is exactly that, that we
18 have -- we have those procedures and
19 whatnot in place. We do a very good job
20 at that.

21 MR. HARRIS: Okay. I'm
22 going to move to strike that
23 answer as nonresponsive.

24 BY MR. HARRIS:

1 Q. Mr. Shaheen, listen to my
2 question very closely, okay?

3 My question to you is very
4 simple. It is a yes/no question.

5 Do you believe it is
6 important to reduce diversion?

7 MR. KOBRIN: Object to form.

8 It's not necessarily asking a
9 question, but you can answer the
10 question.

11 THE WITNESS: Do I
12 believe -- any type of laws like
13 that, I believe it's important.

14 BY MR. HARRIS:

15 Q. It is important. And it's
16 important so that these middle school
17 children that we read about in that
18 article don't get their hand on
19 prescription drugs, including opioids;
20 isn't that right?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: And that's why
23 when we talk to parents, we give
24 them the ability to understand how

1 maybe their kids will get it.

2 MR. KOBRIN: Did you finish,
3 Rick? You cut out there for a
4 second. I didn't hear the end of
5 that. I didn't know if you were
6 finished.

7 BY MR. HARRIS:

8 Q. Was there any more to your
9 answer, Mr. Shaheen?

10 A. No. I gave you my answer.

11 Q. Okay. Are you okay with
12 middle school children having their hands
13 on prescription drugs?

14 A. I don't --

15 MR. KOBRIN: Objection to
16 form. I'd ask that you rephrase
17 that, Mr. Harris.

18 MR. HARRIS: I'm not going
19 to.

20 BY MR. HARRIS:

21 Q. Mr. Shaheen, are you okay
22 with middle school children having their
23 hands on prescription drugs?

24 MR. KOBRIN: Object to form.

1 Argumentative. Inappropriate.

2 You can answer if you can,

3 Rick. It's a pretty clear answer.

4 THE WITNESS: No, I'm not

5 okay.

6 BY MR. HARRIS:

7 Q. Okay. Great. So it's

8 important to reduce diversion to make

9 sure the number of pills out on the

10 streets for kids is lessened; isn't that

11 right?

12 A. And that's what I said.

13 We're doing that on a daily basis at

14 Giant Eagle. I don't -- you want me to

15 answer something that I'm telling you

16 what we do.

17 Q. I want you to answer yes or

18 no. It's a very simple question,

19 Mr. Shaheen. It's important to make sure

20 that prescription drugs stay within the

21 lawful course of where they need to be

22 and do not fall outside a system of

23 closed distribution; isn't that right?

24 A. Every prescription drug.

1 Q. Perfect. Great. Thank you.

2 Okay. Do you agree that
3 even one pill falling outside the lawful
4 area where it should be is an example of
5 diversion?

6 A. It could be.

7 MR. KOBRIN: Object to form.

8 BY MR. HARRIS:

9 Q. Okay. So -- so even if one
10 opioid were to not be delivered to a
11 pharmacy or be stolen from a pharmacy or
12 be prescribed without a valid
13 prescription, that can be an example of
14 diversion, right?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: Well, you'd
17 have to -- you'd have to do that
18 investigation and see where it
19 ended up. Was it a broken pill?
20 Did it get thrown in the garbage?
21 Did something happen to it? You'd
22 have to look into that.

23 Depending on what happened,
24 that would be the answer.

1 BY MR. HARRIS:

2 Q. Okay. Do you believe there
3 is an opioid epidemic in this country?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I think the
6 problem with opioids have --

7 have -- are being addressed, have
8 gotten better.

9 Did we have -- you know, did
10 we have people that were taking
11 opioids or being prescribed
12 opioids by doctors? Yes to all
13 that.

14 To a -- I wouldn't say
15 epidemic. Did we have somewhat of
16 a problem with opioids, yeah we
17 were -- we were not only in the
18 law enforcement world but in the
19 other communities, I think
20 everybody now has gotten together
21 and understands the problem a lot
22 better.

23 BY MR. HARRIS:

24 Q. So just to be clear, your

1 testimony for this jury is no, you do not
2 believe there was an epidemic, but you
3 would say that we had somewhat of a
4 problem with opioids; is that correct?

5 MR. KOBRIN: Object to form.
6 Misrepresents his testimony.

7 THE WITNESS: Yes, we did
8 have -- we did have a problem.
9 And it's still being addressed.

10 BY MR. HARRIS:

11 Q. Do you believe that
12 diversion of opioids has contributed to
13 that problem with opioids in this
14 country?

15 A. Please repeat.

16 MR. KOBRIN: Object to form.

17 BY MR. HARRIS:

18 Q. Absolutely. Do you believe
19 that diversion of opioids has contributed
20 to the problem with opioids in this
21 country?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: Yes, if -- if
24 medication is prescribed -- and it

1 goes back to the beginning too.

2 If it's not taken appropriately or
3 used not appropriately, it could
4 add to that.

5 BY MR. HARRIS:

6 Q. If they're stolen, it can
7 add to that as well, the problem?

8 A. If stolen, it could add to
9 that problem.

10 Q. Okay. If there -- strike
11 that.

12 If prescriptions are filled
13 without valid prescriptions, can that
14 contribute to the problem?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: Again, yes, if
17 it's not written accordingly and
18 taken appropriately.

19 BY MR. HARRIS:

20 Q. Okay. Well, I'm asking you
21 about fraudulent prescriptions.

22 So if an order for opioids
23 is filled with a fraudulent prescription,
24 that's not taken appropriately, correct?

1 A. If a prescription was not
2 written appropriately by a doctor.

3 Q. Meaning if it was forged?

4 A. Correct.

5 Q. Or fraudulent?

6 A. Yes.

7 Q. Okay. So a forged or
8 fraudulent prescription is not an
9 appropriate use of opioids, correct?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: Right. It's
12 not the proper way, obviously, of
13 attaining medication.

14 BY MR. HARRIS:

15 Q. Okay. And then fraudulent
16 prescriptions should not be filled,
17 correct?

18 A. If a fraudulent prescription
19 is determined, they won't be filled. If
20 you -- if you determine a prescription is
21 fraudulent, you know, there's not a
22 pharmacist out there, I believe, that
23 would fill that.

24 Q. That wasn't exactly my

1 question. So if you'll please listen
2 again. A fraudulent prescription should
3 not be filled, correct?

4 I'm not asking whether it's
5 identified or who's identifying it. I'm
6 just asking the simple question.

7 A fraudulent prescription
8 should not be filled. We can agree to
9 that, right?

10 A. If you know it's fraudulent,
11 I agree with you.

12 Q. Okay. Now, Giant Eagle is
13 not a national chain; is that right?

14 A. Correct.

15 Q. As far as -- my
16 understanding is they cover five states,
17 Ohio, Pennsylvania, West Virginia,
18 Maryland, and I believe they have a
19 couple stores in Indiana; is that
20 correct?

21 A. Correct.

22 Q. Okay. If you want to go
23 ahead and pull that binder out that I
24 gave you. We're going to look at another

1 document now. It's going to be, I
2 believe, the last tab, Tab 73.

3 (Document marked for
4 identification as Exhibit
5 Shaheen-2.)

6 MR. HARRIS: For the record,
7 this was produced as P-HBC-01359.
8 And we can label this as
9 Shaheen-2.

10 MR. KOBRIN: We're skipping
11 2 through 72, right, Josh.

12 MR. HARRIS: Yeah. Going
13 straight to 73. And I'll tell you
14 why I'm pointing that out.

15 That is -- we're going
16 straight to 73. If y'all want to
17 pull that out from the binder,
18 we'll discuss it with the witness.

19 But this is a pharmacy and
20 store list that lists out the
21 stores. So we'll be referring to
22 it throughout the day.

23 So if you want to take it
24 out for ease of access, so you

1 don't have to flip through that
2 entire binder all day, I'm okay
3 with that.

4 BY MR. HARRIS:

5 Q. Does that make sense,
6 Mr. Shaheen?

7 A. It does.

8 Q. Okay. So whenever you have
9 that pulled out and you're able to look
10 at the first page. Realistically, I only
11 plan on referring to the first five
12 pages, if that makes it even easier.

13 MR. KOBRIN: This is going
14 to be Exhibit 2 then?

15 MR. HARRIS: Yes. This will
16 be Shaheen-2.

17 THE WITNESS: How many pages
18 did you say?

19 BY MR. HARRIS:

20 Q. Well, the whole document
21 covers approximately 24. But if you
22 look, the first six -- I apologize -- and
23 they're labeled at the bottom, are the
24 ones that I'm going to be referring to

1 throughout the day. But let's go ahead
2 and start with Page 1, okay, Mr. Shaheen?
3 You got that document in front of you?

4 A. Yes.

5 MR. KOBRIN: If you have a
6 binder clip, I think you might
7 want to -- I'm going to clip the
8 whole thing, just because it is a
9 lot of pages. I don't want it to
10 get loose.

11 MR. HARRIS: Yeah, that's
12 fine. I only intend to refer to
13 the first six pages. So if you
14 want to put the other 20 off to
15 the side, however y'all want to do
16 it.

17 MR. KOBRIN: Are the other
18 20 related, or do you know what
19 they are?

20 MR. HARRIS: Yeah, I know
21 what they are, but I don't need
22 them though.

23 MR. KOBRIN: Okay. I just
24 want to make sure that we don't

1 throw them aside and ignore them
2 if they're relevant at all.

3 MR. HARRIS: Yeah, if I
4 refer to anything on those, I'll
5 let y'all know so you can grab
6 them again.

7 BY MR. HARRIS:

8 Q. All right. Mr. Shaheen,
9 let's look at the top of Page 1 here. Do
10 you see the blue bar on HBC-1359, labeled
11 as Shaheen-2 now?

12 A. Yes.

13 Q. All right. So this is --
14 this is a list of the pharmacies and the
15 stores that Giant Eagle owns. Is that
16 fair to say?

17 A. I'm just looking at all the
18 pages to make sure.

19 Q. Absolutely.

20 MR. KOBRIN: I don't know if
21 you got my objection. Object to
22 form. Lack of foundation.

23 THE WITNESS: Okay.

24 BY MR. HARRIS:

1 Q. All right. So would you
2 agree that this is a list of Giant Eagle
3 stores and pharmacies?

4 A. Yes.

5 Q. All right. Let's look at
6 that top blue bar now. If we see, the
7 first column says "Pharm No.," standing
8 for pharmacy number.

9 Do you see where it says
10 that?

11 A. I do.

12 Q. Then it says "Store No.,"
13 standing for store number, "Short Name,"
14 and it gives the physical location,
15 including the territory.

16 Do you see all those?

17 A. I do.

18 Q. All right. So what I intend
19 to do today is we're going to be looking
20 at report from pharmacies. I'd like to
21 you keep this ready so that way we can
22 see where these pharmacies are located.
23 Okay?

24 A. Okay.

1 Q. All right. You can set that
2 off to the side for now. Let's go ahead
3 and go through this.

4 You would agree that in
5 these pharmacies that are on this list,
6 Giant Eagle dispenses controlled
7 substances; is that right?

8 A. Yes.

9 Q. Okay. And because you are
10 dispensing controlled substances, Giant
11 Eagle is required to follow the
12 Controlled Substance Act. Do you agree
13 with that?

14 MR. KOBRIN: Object to form.

15 It is a legal conclusion.

16 THE WITNESS: Yes.

17 BY MR. HARRIS:

18 Q. Okay. Have you ever heard
19 of a suspicious order monitoring system?

20 A. Yes.

21 Q. What is your understanding
22 of what a suspicious order monitoring
23 system, or SOMS for short, is?

24 A. Limited. But it is

1 basically orders from a warehouse to a
2 pharmacy.

3 Q. When you were first employed
4 by Giant Eagle, did they have a
5 suspicious order monitoring system in
6 place?

7 A. I'm not sure.

8 Q. Okay. Do you know if they
9 have one in place today?

10 A. I believe they do.

11 Q. Okay. Reporting suspicious
12 orders, is that a requirement under the
13 Controlled Substance Act?

14 MR. KOBRIN: Object to form.

15 Seeks a legal conclusion. Do you
16 want to show him the CSA or --

17 THE WITNESS: I don't know.

18 I'd have to -- I'd have to see it.

19 Is it under the DEA? Is
20 it -- what do you -- do you have a
21 document for me to see so I can
22 acknowledge that?

23 BY MR. HARRIS:

24 Q. No, sir. I'm just asking

1 you, based upon your understanding of the
2 Controlled Substance Act, is reporting
3 suspicious orders required?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I'm not sure.

6 MR. KOBRIN: I think he's
7 already said that his knowledge of
8 the Controlled Substance Act is
9 limited.

10 MR. HARRIS: Thanks for
11 that. Thank you, Counsel.

12 BY MR. HARRIS:

13 Q. Drawing --

14 MR. KOBRIN: Mr. Harris, I'm
15 not going to be obstructionist.
16 And I think my objections have
17 been pretty reasonable. But if
18 you do interrupt them, we are
19 going to burn a lot of time on
20 that because that, I'm not going
21 to -- I'm not going to condone.

22 So just let me get my
23 objection out. And I'll let you
24 move on. I'll allow you ask the

1 question. I'll allow him to
2 answer it.

3 But don't try and cut my
4 objections short. I'd appreciate
5 that.

6 MR. HARRIS: Well, assuming
7 they state objection to form, then
8 we should not have issues
9 throughout the day.

10 MR. KOBRIN: Mr. Harris, I
11 haven't met you in the case. So
12 you may not know, there is
13 actually an order on that in this
14 case from the Special Master that
15 says we're allowed to explain our
16 objections in short form.

17 I'm not going to waste a lot
18 of time. I'm not looking to be
19 obstructionist. I'm not trying to
20 give you a hard time here. But I
21 am going to get my objection on
22 the record.

23 And my objection was he said
24 he had limited knowledge of the

1 SOMS and the Controlled Substance
2 Act.

3 So I object to form about
4 getting into detail on these
5 issues.

6 MR. HARRIS: Anything else?

7 Or am I good to ask a question?

8 MR. KOBRIN: You're good.

9 Thank you.

10 BY MR. HARRIS:

11 Q. Mr. Shaheen, Giant Eagle did
12 not have a SOMS policy until August 2014;
13 is that correct?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: A what?

16 BY MR. HARRIS:

17 Q. A SOMS, suspicious order
18 monitoring system?

19 A. I don't know that.

20 MR. KOBRIN: Object to form.

21 Facts not in evidence.

22 BY MR. HARRIS:

23 Q. Okay. And the chain of
24 distribution and dispensing, do you agree

1 that Giant Eagle relies heavily on their
2 pharmacists as a last line of defense?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: Medication
5 cannot leave a pharmacy unless a
6 pharmacist fills that medication.

7 We have other systems in
8 place leading up to that with the
9 end result of a pharmacist either
10 dispensing and then it being sold
11 out. That's the protocol that we
12 follow.

13 BY MR. HARRIS:

14 Q. Okay. And you rely upon
15 your pharmacists to properly dispense
16 those controlled substances, including
17 opioids, correct?

18 MR. KOBRIN: Object to form.

19 Mr. Shaheen relies upon them?

20 Giant Eagle does?

21 You can answer it.

22 THE WITNESS: I was --
23 repeat. I thought he was going to
24 say something. Repeat.

1 MR. KOBRIN: I did too.

2 BY MR. HARRIS:

3 Q. Okay. Giant Eagle relies
4 upon its pharmacists to properly dispense
5 controlled substances, including opioids,
6 correct?

7 A. Yes.

8 Q. Okay. They play a key role
9 in -- excuse me. Strike that.

10 Pharmacists play a key role
11 by exercising their professional judgment
12 filling legitimate prescriptions,
13 correct?

14 A. That is one of the things
15 they utilize.

16 Q. Okay. What are the other
17 things they utilize?

18 A. Due diligence.

19 Q. What does that term mean to
20 you?

21 A. Again, it's a -- it's a
22 judgment term that pharmacists exercise
23 through their professional education.

24 Q. Okay. Are the pharmacists

1 required to conduct due diligence?

2 A. Yes.

3 Q. By whom?

4 A. Themselves.

5 Q. Okay. Are there any federal

6 or state statutes that you're aware of

7 that also impose that obligation?

8 A. I would have to look for

9 that. I'm not familiar.

10 Q. Okay. Now, your role within

11 the company is to train pharmacists to

12 keep tight control over the controlled

13 substances they dispense, correct?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: No, I'm not

16 training pharmacists. Do I work

17 with pharmacists to help them?

18 That's what I do. I'm not

19 training them.

20 BY MR. HARRIS:

21 Q. Okay. Let's go ahead and go

22 to Tab 33. This is going to be

23 P-HBC-01304.

24 A. Tab what?

1 Q. 33. Three-three. Let me
2 know when you get that.

3 (Document marked for
4 identification as Exhibit
5 Shaheen-3.)

6 MR. HARRIS: While you're
7 pulling that up, Mr. Shaheen, I'm
8 just going to state for the record
9 that the cover sheet on this
10 document indicated that this
11 was -- this presentation comes
12 from January 15th, 2015.

13 I don't believe there's a
14 date on this slide, so I want to
15 go ahead and put that out there
16 for the record.

17 BY MR. HARRIS:

18 Q. Do you recognize this
19 presentation, Mr. Shaheen?

20 A. I do.

21 Q. Okay. And we see here that
22 it has the Giant Eagle logo on the left.

23 Then it says, "Loss
24 prevention department."

1 Do you see that?

2 A. I do.

3 Q. And it has your name,
4 Richard Shaheen, and your title, pharmacy
5 investigator, right?

6 A. Yes.

7 Q. Is it safe to say this was a
8 presentation that you created?

9 A. Yes.

10 Q. Was this a presentation that
11 you would have presented to a group of
12 Giant Eagle employees, including
13 pharmacists and pharmacist techs?

14 A. No.

15 Q. Okay. Who would you have
16 presented this to?

17 A. Pharmacists.

18 Q. So just the pharmacists, not
19 the techs.

20 A. Correct.

21 Q. Okay. Thank you for that
22 clarification. All right. Let's go
23 ahead and go through this slide. The
24 first slide -- or I guess the second

1 technically after the cover page, starts
2 with "Pharmacy/Loss Prevention Guide For
3 the Master Trainer."

4 Do you see that?

5 A. I do.

6 Q. And it lists the topics that
7 are covered in this presentation,
8 starting with drug diversion, right?

9 A. Yes.

10 Q. And then it says, "Signs of
11 drug abuse within the pharmacy," correct?

12 A. Correct.

13 Q. And then it says
14 "Overprescribers"?

15 A. Yes.

16 Q. "Theft within the pharmacy"?

17 A. Yes.

18 Q. And continues on.

19 So let's go ahead and go
20 through this. The next slide is titled
21 "What is Drug Diversion?"

22 A. Mm-hmm.

23 Q. It says, just for the
24 record -- was that mm-hmm, that was a

1 yes, correct?

2 A. I'm sorry. I'm sorry.

3 Q. That's okay.

4 It says, "NADDI," N-A-D-D-I,
5 "defines drug diversion as 'any criminal
6 act involving a prescription drug.'"

7 Do you see that?

8 A. Yes.

9 Q. So since you created this
10 PowerPoint, where did you get that
11 information from?

12 A. NADDI.

13 Q. Okay. What is NADDI, for
14 the jury?

15 A. National Association of Drug
16 Diversion Investigators.

17 Q. Is that a professional
18 organization?

19 A. I believe so.

20 Q. Are you a member of NADDI?

21 A. No longer.

22 Q. So it sounds like you
23 previously were?

24 A. Yes. And not -- not during

1 the time period this was created. But
2 when I was an agent I was a member, and
3 then one year at Giant Eagle, I think it
4 was.

5 Q. Why did you leave?

6 A. Oh, I didn't leave. I just
7 never renewed.

8 Q. Okay. Why did you not
9 review?

10 A. I just -- I just never
11 reviewed. That's all. Their meetings
12 are in Columbus, and I'm in Pittsburgh.

13 Q. Okay.

14 A. Yeah.

15 Q. All right. Let's go ahead
16 and go to the next page then.

17 It says, "Consequences
18 video." And we see here, this is an
19 officer arresting what appears to be a
20 younger male; is that correct?

21 A. Yes.

22 Q. All right. The next page is
23 titled, "Signs of abuse." Excuse me, it
24 says, "Signs of drug abuse," right?

1 A. Yes.

2 Q. Now, is this related to
3 signs of drug abuse of Giant Eagle
4 employees?

5 A. No, this -- this could be
6 anybody.

7 Q. Okay. Let's go through some
8 of these then. The first signs of drug
9 abuse for what you say to be anybody, is
10 frequent breaks, right?

11 A. Right. Well, let me
12 clarify. A portion of what is said is
13 for anybody. But like, the breaks and
14 work station and call offs, that's
15 relevant to Giant Eagle.

16 Q. Okay. And this was
17 presented to Giant Eagle pharmacists,
18 correct?

19 A. Correct.

20 Q. Okay. So this presentation
21 says that frequent breaks, leaving work
22 station, late for work/call offs, are
23 signs for drug abuse, right?

24 A. Yes, it could be. Mm-hmm.

1 Q. So you put the -- strike
2 that.

3 Let's go to the next one,
4 "Overprescribers."

5 Do you see this slide?

6 A. Yes.

7 Q. It says, "Follow the
8 controlled substance dispensing
9 guidelines."

10 Do you see that? What are
11 those?

12 A. The -- there's a procedure
13 within Giant Eagle that is provided to
14 the pharmacists.

15 Q. Okay. What does that
16 procedure say?

17 A. I would have to pull it out.
18 You'd have to show me. There's several
19 things on it.

20 Q. So even though you're
21 providing training on this, and you don't
22 have specific bullet points, you're not
23 aware of, sitting here today, what's
24 contained within the controlled substance

1 dispensing guidelines?

2 MR. KOBRIN: Object to form.

3 That misrepresents his testimony.

4 He actually included -- in his
5 words, he said there's a lot in
6 it.

7 BY MR. HARRIS:

8 Q. You can go ahead and answer,
9 Mr. Shaheen.

10 A. They receive, they have
11 the -- the pharmacists have it. Like I
12 said, you know, my training -- you could
13 call it training. I mean, I'm -- it's a
14 familiarization. Hey, don't forget, look
15 at your controlled substance dispensing
16 guidelines. They have those.

17 Q. Okay. So you don't --

18 A. No bullet points were
19 needed. That's my emphasis.

20 MR. KOBRIN: Hey, Josh,
21 before you ask another question,
22 can we take a break sometime soon?
23 We've been going for about an hour
24 and 20 minutes.

1 MR. HARRIS: Yeah, let me
2 see. Let's get through this
3 document, and then we can take a
4 break.

5 MR. KOBRIN: Are you okay
6 with that, Mr. Shaheen?

7 THE WITNESS: Yeah. The
8 coffee is starting to work on me,
9 but...

10 BY MR. HARRIS:

11 Q. All right. Well, we'll move
12 through it. It says, "Utilize
13 'corresponding responsibility.'" And
14 corresponding responsibility in quotes.

15 Do you see that?

16 A. Yes.

17 Q. All right. What is
18 corresponding responsibility?

19 A. Well, it's -- a
20 corresponding responsibility, you know,
21 is to -- the doctor provides the
22 prescription. It is then the
23 responsibility that the pharmacist has to
24 use their professional judgment for the

1 validity of that prescription that the
2 physician wrote.

3 Q. Okay. Let go to the next
4 slide titled "Theft Within the Pharmacy."

5 Do you see this slide?

6 A. Yes.

7 Q. First bullet point says,
8 "Contact PI if theft is suspected."

9 Do you see where it says
10 that?

11 A. Yes.

12 Q. What is PI?

13 A. Pharmacy investigator.

14 Q. Okay. And back in 2015,
15 that's what your role was?

16 A. Yes.

17 Q. Were there any other
18 pharmacy investigators employed by Giant
19 Eagle at that time?

20 A. I'm not sure if Andrew was
21 hired at that point.

22 Q. Other -- so understanding
23 your answer about Andrew, other than him
24 were there any others -- any other

1 pharmacy investigators?

2 A. No.

3 Q. So at this point it was
4 either just you or just you and Andrew?

5 A. Correct.

6 Q. All right. Let's go to the
7 next slide. It says, "Best investment in
8 America."

9 The first bullet point says,
10 "180 oxycodone 30-milligram tablets."

11 Do you see where it says
12 that?

13 A. Yes.

14 Q. Underneath it, it says,
15 "\$1 - street value \$5,400."

16 What does that mean?

17 A. This was provided to me by a
18 narcotic -- a narcotic agent
19 investigator, utilized to show what was
20 street value based on any type of sale
21 for that particular product or that drug.

22 Q. Okay. So oxycodone has a
23 high street value. Would you agree?

24 MR. KOBRIN: Object to form.

1 THE WITNESS: Yes.

2 BY MR. HARRIS:

3 Q. Okay. The next one we see,
4 "90 alprazolam, 2-milligram tablets,"
5 with the same kind of sub-bullet point.

6 Do you see where it says
7 that?

8 A. Alprazolam, yes.

9 Q. Okay. And is that
10 representing the street value for
11 alprazolam?

12 A. That was the information
13 that was provided to me, yes.

14 Q. Let's go to -- I apologize.
15 These don't have page numbers on them.
16 But the page titled "Perpetual Log" at
17 the top. Let me know when you get there,
18 Mr. Shaheen.

19 A. Okay.

20 Q. Okay. It says, "Perpetual
21 log, tool used to keep an accurate count
22 of medications."

23 Do you see where it says
24 that?

1 A. Yes.

2 Q. Was this a tool employed by
3 your pharmacists to make sure that they
4 could in fact keep an accurate count of
5 medications?

6 A. I'm sorry. Half of you
7 broke up. Would you please repeat?

8 Q. Absolutely. The perpetual
9 log, was that a tool actually used by
10 your pharmacists to keep an accurate
11 account of medications?

12 A. Yes. But they also had --
13 we also had -- the perpetual log is one
14 thing. One of -- one of a couple of
15 things. They had technology or software
16 programs also, but yes.

17 Q. Okay. The next bullet point
18 says, "Full back counts are mandatory."

19 Do you see that?

20 A. Yes.

21 Q. What is a full back count?

22 A. Count the remaining product
23 in a bottle if you didn't use the stock
24 bottle up. And then also count your

1 inventory in the safe.

2 Q. Okay. And the purpose
3 behind the perpetual log was to make sure
4 that your pharmacist could keep track of
5 prescription drugs, right?

6 A. Yes, it was an aid for that,
7 mm-hmm.

8 Q. Okay. And it's important to
9 keep track of prescription drugs such as
10 opioids to make sure they don't go into
11 the chain of diversion, right?

12 A. It was -- it was important
13 to maintain because any type of shortages
14 we were obligated to report to the DEA
15 and the Ohio Board, and any other state
16 that we had to. So if we were missing
17 medication, this was a system to identify
18 that.

19 Q. Okay. And it's important to
20 know where they are so they aren't
21 diverted and fall into the hands of
22 people who should not have prescription
23 drugs, correct?

24 A. This is -- this was a

1 reporting system to make sure that we had
2 accountability that there were no losses,
3 whether it was by delivery or dispensing.
4 It was utilized in that manner.

5 MR. KOBRIN: Really quick, I
6 made a couple of objections that
7 didn't show up on the record. I
8 want to make sure it's not --
9 because it's not -- it might be on
10 my end that it's not picking up my
11 microphone. Should it be showing
12 up on the realtime or will it get
13 added later, do you think?

14 THE COURT REPORTER: No, if
15 I don't hear you, I don't -- I did
16 not hear an objection for the last
17 few questions.

18 MR. KOBRIN: That's fine.
19 The last two, if you can end --
20 object to form, but it's fine.
21 You can proceed.

22 BY MR. HARRIS:

23 Q. Mr. Shaheen, your last
24 answer was, "This was a reporting system

1 to make sure we had accountability that
2 there were no losses, whether it was by
3 delivery or dispensing."

4 Do you remember saying that?

5 A. Yes.

6 Q. Why is it important to have
7 accountability so there are no losses?

8 A. Well, you have
9 accountability on all medications.

10 I mean, you know, it's not
11 like -- it's not like this is, you know,
12 we receive product and you turn your back
13 on it. You know, we're obligated by
14 state and federal regulations. We follow
15 those regulations. You know, we go above
16 and beyond. And this was one of the
17 additional platforms that Giant Eagle
18 does to go above and beyond what is
19 required by -- you know, what's lawfully
20 required by us.

21 Q. So your testimony for this
22 jury today is that Giant Eagle goes above
23 and beyond what's lawfully required
24 related to their prescription drugs and

1 dispensing?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: Yes. I am

4 saying that we have a lot of

5 systems in place, and this was one

6 of them.

7 BY MR. HARRIS:

8 Q. Okay. It says -- third

9 bullet point, "Enter data in log

10 immediately after final verification,"

11 right?

12 A. Yes.

13 Q. Mr. Shaheen, I think --

14 sorry. I believe the first part of your

15 answer got cut off. So let me re-ask my

16 question, okay?

17 The third bullet point, it

18 says, "Enter data in log immediately

19 after final verification," correct?

20 A. Yes.

21 Q. Okay. What does the word

22 "immediately" mean to you?

23 A. After they -- after a

24 pharmacist does the check on the product,

1 the product will be placed back into a
2 safe or secured area.

3 Q. Okay. I understand that,
4 but my question was, what does the word
5 "immediately" mean to you? It says,
6 "Enter data in log immediately after
7 final verification."

8 What does "immediately"
9 mean?

10 A. After they finish their
11 verification, the pharmacists are
12 supposed to put the medication back into
13 the safe. Now, that's my answer.

14 Q. Okay. Right after they're
15 done, correct?

16 MR. KOBRIN: You're freezing
17 on me. I'm not sure why. I think
18 it's okay now.

19 I can see on the realtime
20 what you said. But I didn't catch
21 the end of that response.

22 THE WITNESS: My response?

23 MR. KOBRIN: Yeah. You said
24 the pharmacists are supposed to

1 put the medication back in the
2 safe?

3 THE WITNESS: Yes. Or
4 secure it, you know, in the
5 drawer. They have a locked drawer
6 and a locked safe, you know.

7 BY MR. HARRIS:

8 Q. Okay. Well, Mr. -- let me
9 go ahead and stop you, Mr. Shaheen.
10 Mr. Kobrin may have an opportunity later
11 today to ask you questions. But right
12 now --

13 MR. KOBRIN: I'm not doing
14 redirect. I apologize. I just --
15 you all froze on me for a second.

16 BY MR. HARRIS:

17 Q. Okay. Then let's go ahead
18 and clear it this way then.

19 Mr. Shaheen, when it says,
20 "Enter data in log immediately after
21 final verification," how soon after the
22 final verification must the pharmacist
23 log the data?

24 A. The pharmacist -- the

1 pharmacist will complete their final
2 verification. They will bag the
3 medication up, you know, back count the
4 bottle, if that was the time period, and
5 then subsequently take the bottle and
6 place it into a safe or a secured area,
7 which is either a drawer or a safe that
8 we have by the pharmacist's feet.

9 Q. What does that have to do
10 with logging data immediately?

11 A. Well, you're asking about
12 the perpetual log. You know, we keep an
13 accurate account, and we have to do our
14 back counts, and then at times too,
15 sometimes the pharmacists have another
16 prescription that is right after that for
17 that same drug, and they can provide that
18 to the technician.

19 Q. And let me ask you this. It
20 doesn't say on here, "Enter data two
21 weeks after final verification," does it?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: No.

24 BY MR. HARRIS:

1 Q. It doesn't say, "Enter data
2 in log one month after final
3 verification," does it?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: No.

6 BY MR. HARRIS:

7 Q. It says immediately, doesn't
8 it?

9 A. It says immediately.

10 Q. And that means right after,
11 correct?

12 A. As I told you, sometimes
13 what happens too is these pharmacists
14 will get another prescription, and
15 they'll take that same bottle and hand it
16 over to a technician.

17 MR. KOBRIN: We've been
18 going --

19 MR. HARRIS: Motion to
20 strike as nonresponsive.

21 BY MR. HARRIS:

22 Q. My question to you,
23 Mr. Shaheen, was, it says immediately,
24 which -- this is your presentation, and

1 I'm asking you, when you put this in your
2 presentation, what did you mean by
3 immediately?

4 That is my question. Do you
5 understand my question?

6 A. Follow -- yes, I understand
7 your question.

8 Q. Okay. Then could you please
9 answer my question? What does
10 immediately mean as it appears in this
11 slide?

12 A. Following -- following final
13 verification, okay, they verify the
14 product. They back count the product.
15 And then the product will be placed
16 inside the safe and/or the locked area.

17 MR. KOBRIN: All right.

18 We've been going for almost
19 15 minutes since we --

20 MR. HARRIS: No, we're going
21 to get an answer to this question
22 because he is avoiding it. We
23 have -- we are getting an answer
24 to this question.

1 MR. KOBRIN: We can --
2 excuse me, Josh. I waited until
3 that answer was complete. I was
4 hopeful that that would be the
5 answer that you wanted.

6 If you want to do a
7 follow-up, I'm okay with that.
8 But I think we need to take a
9 break already.

10 MR. HARRIS: Well, let's get
11 through this slide, and then we
12 will.

13 So if your witness wants to
14 answer my question, then we can
15 take a break even sooner.

16 BY MR. HARRIS:

17 Q. So Mr. Shaheen, when you say
18 immediately, give me, in a sense of time,
19 how quickly that must happen.

20 MR. KOBRIN: Object to form.
21 Asked and answered.

22 THE WITNESS: It -- it even
23 states that they enter the data
24 into the log, okay, immediately

1 after final verification. So
2 that's the process. The
3 medication comes down. They pull
4 it out of the basket. They count
5 the pills. And then they enter
6 the data into the system, and
7 then -- then they place the
8 bottles into the safe or locked
9 drawer.

10 BY MR. HARRIS:

11 Q. Okay. At the bottom, "It
12 says all pharmacist must comply,"
13 correct?

14 A. Correct.

15 Q. It does not say "may
16 comply," correct?

17 MR. KOBRIN: We're going to
18 take a break, Josh. This is
19 getting a little ridiculous. I've
20 been completely cooperative with
21 you on finishing getting through
22 this. But we've been working on
23 it for 15 minutes.

24 MR. HARRIS: Sure. Maybe

1 during the break, you can speak to
2 your witness about answering
3 questions as well. But that's
4 fine. We can go off the record.

5 MR. KOBRIN: Yeah, I object
6 to that statement. I think you've
7 gotten what you need on this
8 issue. I don't want to cut off
9 your colloquy, but I do want to
10 give the witness an opportunity to
11 take a break. He said that the
12 coffee was working its way through
13 him. So I don't want him to be
14 uncomfortable during the
15 deposition.

16 MR. HARRIS: I'm happy to
17 take a break.

18 MR. KOBRIN: Ten-minute
19 break.

20 THE VIDEOGRAPHER: Going off
21 record. The time is 11:55.

22 (Short break.)

23 THE VIDEOGRAPHER: We are
24 going back on record. The time is

1 12:11.

2 BY MR. HARRIS:

3 Q. All right. Mr. Shaheen,
4 we're back from our break. Do you
5 understand that you're still under oath?

6 A. I do.

7 Q. Okay. I'll go ahead and say
8 this. I certainly don't mind taking
9 breaks throughout the day. And I
10 anticipate we'll take one for lunch. But
11 the future breaks, let's make sure that
12 we finish questions or documents we're
13 discussing before we take a break. Is
14 that okay, Mr. Shaheen?

15 MR. KOBRIN: Object to form.
16 Or objection, rather. Not to
17 form. I think we were really
18 considerate on that front. And
19 I'm not going to let him agree to
20 that. If we're going to take a
21 long time going through a
22 document, for you to say let's
23 finish up this document after
24 we've been going for an hour and

1 20 -- I think we went for an hour
2 and 40 minutes there.

3 And so if he needs to take a
4 break before a document is done, I
5 don't think that's inappropriate
6 if he needs to take a quick break.

7 MR. HARRIS: Okay. Well,
8 we're not going to take a break
9 while I have a question pending.

10 BY MR. HARRIS:

11 Q. So let's move on,
12 Mr. Shaheen. Looking at where --

13 MR. KOBRIN: Josh, I think
14 that's fair. I just -- I'm
15 concerned about agreeing to not
16 take a break before a document is
17 done, when we could be on a
18 document for an hour or two.

19 BY MR. HARRIS:

20 Q. All right. Mr. Shaheen, do
21 you have this document pulled up in front
22 of you? I forget what tab it is. I
23 apologize. It's Tab 33.

24 A. Yes.

1 Q. Okay. We're on the page
2 "Perpetual Log." Do you remember talking
3 about this page?

4 A. Yes.

5 Q. Okay. The question that I
6 had pending before we took our break was
7 at the bottom, it says, "All pharmacists
8 must comply with the perpetual log
9 protocol."

10 Do you see that?

11 A. I do.

12 Q. Okay. And you agree must
13 means must, not may, correct?

14 A. Yes.

15 Q. Okay. Let's go a couple
16 pages back where the title of the slide
17 is, "Floater pharmacists and techs."

18 Let me know when you get to
19 that slide. I'm sorry. Towards --
20 towards the end of the document. Do you
21 see it, Mr. Shaheen?

22 A. Yes.

23 Q. All right. What is a
24 floater pharmacist?

1 A. They don't go to one store.
2 They'll go to multiple.

3 Q. Okay. The sentence -- the
4 bullet point, rather, I should say says,
5 "These TMs" -- what does TM stand for?

6 A. Team members.

7 Q. Okay. "These team members
8 must comply with policy and procedure the
9 same as each permanent team member.

10 Is that what it says?

11 A. Yes.

12 Q. Is that what you meant when
13 you put it in this slide?

14 A. Yes.

15 Q. All right. We are now done
16 with that document.

17 Now, one thing that's
18 important in these training materials is
19 to make sure that your pharmacists work
20 closely with the DEA; is that right?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Yes, they will
23 work closely with the DEA. It's
24 not, like, on a daily basis, but

1 yes, they will at times work

2 closely with the DEA.

3 BY MR. HARRIS:

4 Q. Okay. Is it important to be
5 honest with the DEA when your Giant Eagle
6 pharmacists are working with them?

7 A. I'm sorry. You -- I missed
8 that. I'm sorry.

9 Q. Sure. Let me repeat my
10 question.

11 Is it important for Giant
12 Eagle pharmacists to be honest with the
13 DEA when working with them?

14 A. Yes.

15 Q. Why?

16 A. Well, whatever they're
17 working with, meaning whatever that
18 problem is, if that's the situation, if
19 the DEA is coming in to request
20 information, we provide that information
21 accurately.

22 If we are contacting the
23 DEA, then, you know, the information that
24 we provide shall be accurate.

1 Q. Is the same true for a State
2 Board of Pharmacy?

3 A. Yes.

4 Q. All right. Let's go ahead
5 and turn to -- I believe this is going to
6 be Tab 45 in your binder. This is
7 P-HBC-1316.

8 (Document marked for
9 identification as Exhibit
10 Shaheen-4.)

11 MR. KOBRIN: Really quick
12 Josh, you said the last one, Tab
13 33, was that Exhibit 3?

14 MR. HARRIS: Tab 33 was the
15 slide deck?

16 MR. KOBRIN: Yeah.

17 MR. HARRIS: Yes.

18 MR. KOBRIN: Three?

19 MR. HARRIS: Yes, that's
20 correct.

21 THE WITNESS: What number is
22 this tab?

23 BY MR. HARRIS:

24 Q. The tab that we are now

1 turning to is going to be Tab 45, Tab
2 4-5, and this will be Shaheen-4, for the
3 record.

4 A. Got it.

5 Q. Okay. Mr. Shaheen, this was
6 an e-mail chain that was produced to us.
7 I'd like to start at the bottom e-mail,
8 which is the earliest e-mail in time. So
9 do you see at the bottom where it says
10 from Mike Bianco Junior?

11 A. Yes.

12 Q. Okay. This was to
13 STR_Pharmacy_PDLS. I'm assuming that's a
14 Listserv, correct?

15 A. Yes, that's to a varied
16 list, yes.

17 Q. Okay. And then it has
18 carbon copied Joseph Millward, Donna
19 Matty, you, Richard Shaheen, and Greg
20 Carlson.

21 Do you see where it says
22 that?

23 A. I do.

24 Q. And this was an e-mail from

1 September 25th, 2014.

2 Do you see where it says
3 that?

4 A. I do.

5 Q. All right. Mr. Bianco
6 Junior writes, "Hi, PDLs." What does PDL
7 stand for?

8 A. Pharmacy district leader.

9 MR. KOBRIN: Hey, Josh, I
10 don't want to interrupt you after
11 you start getting into the meat of
12 that document.

13 But to the extent that you
14 need to, Rick, feel free read over
15 the document before you answer any
16 questions about it.

17 BY MR. HARRIS:

18 Q. Okay. Mr. Shaheen, it says,
19 "We had a narcotic tote returned to the
20 HBC warehouse today with no identifying
21 marks on or in the tote, so we are unable
22 to determine the pharmacy these came
23 from."

24 Do you see where it says

1 that?

2 A. I do.

3 Q. All right. It says, "Please
4 let me know if any of your pharmacies
5 have reported these missing items." And
6 then it has a list below it.

7 Do you see that?

8 MR. KOBRIN: Object to form.

9 Misstates the document.

10 THE WITNESS: Yes, I see it.

11 BY MR. HARRIS:

12 Q. Okay. On that list of
13 items, the first item says, "Two units,"
14 and it has an item number, "of
15 hydroco/APAP."

16 Do you understand that to
17 mean two units of hydrocodone?

18 A. Yes.

19 Q. All right. Then if we go
20 down about four more, it says, "One
21 unit," item number, hydrocodone with a
22 different strength.

23 Do you see that?

24 A. Yes.

1 Q. And then right beneath that
2 we see one more unit hydrocodone with a
3 different strength.

4 Do you see that?

5 A. Yes.

6 Q. All right. Great. Let's go
7 ahead and go back to the first page of
8 this e-mail.

9 The next e-mail in the
10 chain -- and I will acknowledge that
11 you're not on this. Have you seen this
12 document before, Mr. Shaheen?

13 MR. KOBRIN: Object to form.

14 With regard to any of these
15 documents, Rick, I just don't want
16 to you talk about any documents
17 that we might have gone over in
18 our preparation.

19 But generally, if you've
20 seen this document in the course
21 of your work, feel free to answer.

22 THE WITNESS: Let me -- let
23 me -- let me read this.

24 BY MR. HARRIS:

1 Q. We're going to read through
2 some of it together. My question is more
3 general. Have you seen this document
4 before, Mr. Shaheen?

5 MR. KOBRIN: Same
6 instruction.

7 THE WITNESS: Yes, I've seen
8 this document.

9 BY MR. HARRIS:

10 Q. This e-mail -- the next
11 e-mail in the chain is still from
12 Mr. Bianco, October 1st, 2014, right?

13 A. October --

14 Q. October 1st, 2014.

15 A. Yes.

16 Q. All right. Mr. Bianco
17 writes to Joseph Millward. "Hi, Joe. As
18 you likely know, the DEA was in for an
19 inspection of the warehouse today
20 specifically asking about
21 hydrocodone-containing products. At that
22 time" -- excuse me. "At the time, the
23 warehouse reported having no
24 hydrocodone-containing products on hand."

1 Do you see where it says
2 that?

3 A. I do.

4 Q. The very next sentence says,
5 "Currently we have one case of
6 hydrocodone/APAP 5/325 that was intended
7 for 6510 which is being shipped out
8 tonight after discussion with Tracy
9 Patel."

10 Do you see where it says
11 that?

12 A. I do.

13 Q. Okay. So here Mr. Bianco
14 writes the DEA was asking if this
15 warehouse had any hydrocodone products,
16 right?

17 MR. KOBRIN: Object to form.

18 The document speaks for itself.

19 BY MR. HARRIS:

20 Q. You can go ahead and answer,
21 Mr. Shaheen.

22 A. Okay. I'm just finished
23 reading it, unless you want me to wait
24 for you.

1 Q. I'm finished my question.

2 I'm happy to repeat it though.

3 A. Please.

4 MR. KOBRIN: Have you

5 finished reading it, Rick?

6 THE WITNESS: I'm on the

7 last line.

8 MR. KOBRIN: Why don't we

9 read the exhibit, and when you're

10 ready.

11 MR. HARRIS: We're going to

12 go through it -- to be time

13 efficient, Mr. Shaheen --

14 MR. KOBRIN: No, I'd like --

15 Mr. Shaheen has stated that he

16 wanted to finish reading it. And

17 so I'd like him to have the

18 opportunity to read the document.

19 MR. HARRIS: Sure.

20 Absolutely. Read it all he wants.

21 THE WITNESS: Okay.

22 BY MR. HARRIS:

23 Q. Have you had enough time,

24 Mr. Shaheen?

1 A. I read that October 1st
2 portion.

3 Q. Okay. Do you agree in this
4 document, Mr. Bianco is stating that the
5 DEA was asking if this specific warehouse
6 had any hydrocodone-containing products
7 on hand?

8 A. Yes.

9 Q. And you agree the warehouse
10 reported having no hydrocodone products
11 on hand, correct?

12 MR. KOBRIN: Object to form.
13 He wasn't there. He's not even on
14 this e-mail. I don't now he can
15 possibly agree what they did then.

16 BY MR. HARRIS:

17 Q. Okay. Mr. Shaheen, you
18 agree that this e-mail says, "At the time
19 the warehouse reported having no
20 hydrocodone-containing products on hand,"
21 correct?

22 A. Yes, but I -- I wasn't
23 involved nor did any investigation to
24 this.

1 So I don't -- I don't know
2 where the product was. I can't tell you,
3 you know, was it in the warehouse.

4 I see what it says, but I
5 don't know that.

6 Q. Okay. Do you know
7 Mr. Bianco?

8 A. Yes, I do.

9 Q. Okay. Who is he?

10 A. He's a pharmacist, but he
11 works in the corporate side. He's behind
12 the scenes. He's not a pharmacist in our
13 stores.

14 Q. Okay. Do you believe him to
15 be someone who may misrepresent
16 information to the DEA?

17 A. No.

18 Q. Okay. So when he says,
19 "Currently, we have one case of
20 hydrocodone," do you believe that to be
21 true?

22 A. Yes.

23 Q. So based on Mr. Bianco's
24 e-mail, what was told to the DEA appears

1 to be different than what the actual
2 situation was. Is that fair to say?

3 MR. KOBRIN: Object to form.

4 Again, we're in the same situation
5 where you're asking him to look at
6 an e-mail and tell you what he
7 thinks it means when he didn't
8 receive the e-mail and didn't
9 experience -- was not present at
10 any of the events related to the
11 e-mail.

12 BY MR. HARRIS:

13 Q. You can go ahead and answer,
14 Mr. Shaheen.

15 A. Again, you know, I didn't
16 look into this. I don't know where the
17 products would have been or were they
18 there or not there.

19 You know, yeah, I believe
20 Mike. But I don't know where these
21 products were. So I can't --

22 Q. Okay.

23 A. I'm not comfortable in
24 answering that.

1 Q. Sure. All right. Well,
2 let's go ahead and let's highlight this
3 portion.

4 It says, "At the time the
5 warehouse reported having no
6 hydrocodone-containing products on hand."

7 Do you see where it says
8 that very clearly?

9 A. Yes.

10 Q. Okay. The very next
11 portion, of the very next sentence says,
12 "Currently, we have one case of
13 hydrocodone."

14 Do you see part of that
15 sentence?

16 A. I do.

17 Q. So saying no hydrocodone is
18 different than saying one case of
19 hydrocodone. Can you agree with that
20 principle?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Yes, but at
23 the time the warehouse reported
24 no -- again, I don't -- I don't

1 know why they would have reported
2 that. I didn't investigate that.

3 BY MR. HARRIS:

4 Q. Yeah, I don't know either.
5 But my question is, no means zero,
6 correct, in this context at least?

7 MR. KOBRIN: Object to form.
8 I don't know that he can even
9 answer that. He's not -- for the
10 record, he's not there. He didn't
11 receive the e-mail. He didn't
12 know anything about this
13 situation.

14 BY MR. HARRIS:

15 Q. You can answer, Mr. Shaheen.

16 A. I truly don't know. I
17 didn't look into this. I don't know
18 where the product was. I don't have an
19 answer for that. I don't know.

20 Q. During your time as a
21 pharmacy investigator, were you ever made
22 aware of potential, what may be called
23 red flags when looking at prescribing and
24 dispensing habits?

1 A. Yes.

2 Q. Let's go ahead and turn to
3 Tab 61 of your folder. This is going to
4 be P-HBC-1332. And we'll label this as
5 Shaheen-4 -- Shaheen-5. Excuse me.

6 (Document marked for
7 identification as Exhibit
8 Shaheen-5.)

9 BY MR. HARRIS:

10 Q. Were you able to look at
11 this document, Mr. Shaheen?

12 A. Yes, I found it.

13 Q. Okay. Let's go ahead and
14 turn to the very last page of this
15 document.

16 And down here, this is the
17 earliest e-mail in time on this chain. I
18 guess let me step back.

19 Do you understand in
20 reviewing these, at least for e-mail
21 documents, that it puts the first e-mail
22 kind of at the bottom, and then we have
23 to work our way up? Does that make sense
24 to you?

1 A. I'm seeing that, yeah.

2 Q. Okay. It's a bit confusing.

3 If you need me to point out where I'm

4 referring to, I'm happy to do that.

5 A. Thank you.

6 Q. Not a problem. So this is

7 from 0019, Pharmacy Team Leader.

8 Do you see where it says

9 that on the "from" line?

10 A. Yes.

11 Q. Okay. Now, 0019. Is that

12 your understanding that it's referring to

13 the pharmacy number for a Giant Eagle

14 pharmacy?

15 A. Yes.

16 Q. Okay. So if we look at that

17 pharmacy list that I had you pull out

18 earlier, if we look at Page 1, under

19 Pharmacy Number 19, we see that this is

20 the Broad Street pharmacy in Cambria

21 County, Pennsylvania.

22 A. Yes.

23 Q. Okay, great. So this was

24 another e-mail that was to Joseph

1 Millward, July 7th -- or excuse me,
2 July 27, 2015, that reads, "Hi, Joe.
3 I've reached my limit on oxycodone for
4 the month already, so I am in need of an
5 increase to keep my business. Is there
6 any way this can be done?"

7 Do you see where it says
8 that?

9 A. Yes.

10 Q. He says, "I know in the past
11 it was just a quick e-mail, but currently
12 I was told that there was a bunch of
13 questions we had to answer."

14 Do you see where it says
15 that?

16 A. Yes.

17 Q. All right. So let's go to
18 the next e-mail in the chain. The next
19 e-mail on the chain is from Joseph
20 Millward back to Pharmacy 19.

21 Do you see where it says
22 that?

23 A. Yes.

24 Q. All right. This is the same

1 day, July 27, 2015. He writes, "Scott,
2 please answer the following questions to
3 ensure the increase in threshold is
4 justified by legitimate prescriptions."

5 Do you see where it says
6 that?

7 A. I do.

8 Q. And then down at the bottom,
9 it has a list of 11 -- let me make
10 sure -- yeah, 11 questions that the
11 pharmacists are supposed to answer in
12 order to get an increase; is that
13 correct?

14 A. Can you give me a second to
15 go over them? Or are you going to cover
16 them?

17 Q. We're going to cover most of
18 them, but -- so I'm going to start with
19 Number 1. So let's start there. And if
20 I indicate I'm going to skip one, then
21 I'll let you know, and you can read that
22 one.

23 So one of the things the
24 pharmacist has to answer is, an over --

1 "Has the store experienced an overall
2 increase in prescription volume compared
3 to last year?"

4 Do you see that?

5 A. Yes.

6 Q. Okay. Would you agree that
7 a large increase in prescription volume
8 compared to last year or certain other
9 checkpoints is a potential red flag?

10 MR. KOBRIN: Object to form.

11 Facts not in evidence.

12 Misrepresents the exhibit, and
13 Mr. Shaheen was not on this e-mail
14 either.

15 But you can discuss it if
16 you can, Rick.

17 THE WITNESS: You know,
18 again, you know, red flags, you
19 know, is, you know, for me in law
20 enforcement, former law
21 enforcement, you know, used a
22 little bit more loosely than maybe
23 a pharmacist would.

24 But, you know, I'm sure

1 that, you know, in their eyes it's
2 a professional judgment.

3 So, you know, that question
4 from -- from Millward to him. And
5 why I'm saying maybe a judgment, I
6 don't know what had changed in
7 that pharmacy, meaning are there
8 doctor offices that have opened up
9 and so on and so forth.

10 So I think that's maybe why
11 he's asking that question. You
12 know, has your store experienced
13 an overall increase in
14 prescription volume compared to
15 last year?

16 Well, there could be a very
17 good reason for that. So...

18 BY MR. HARRIS:

19 Q. All right. Thank you. My
20 question was simply, is it a potential
21 red flag?

22 A. It could be.

23 Q. Okay. Thank you. Let's go
24 to Number 6. I'm happy for you to read

1 two through five before you get there.

2 Actually, let's go to 4. Sorry. I just
3 glossed this one over.

4 Number 4, "Who are the
5 prescribers with unusual prescribing
6 patterns?"

7 Do you see where it says
8 that?

9 MR. KOBRIN: Rick, take the
10 time to read what you need to
11 read.

12 THE WITNESS: Okay. Give me
13 one second, please.

14 BY MR. HARRIS:

15 Q. Sure. There's ten words.
16 So it shouldn't take terribly long.

17 A. I was looking at two and
18 three, but...

19 Okay.

20 Q. Okay. Number 4 says, "Who
21 are the prescribers with unusual
22 prescribing patterns?" Correct?

23 A. Yes.

24 Q. Okay. Are unusual

1 prescribing patterns potential red flags?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: It could be.

4 BY MR. HARRIS:

5 Q. Okay. I'm going to skip
6 five, so feel free to read it over.

7 Number 6, it says, "Is there
8 a pattern of prescribing that does not
9 indicate individual patient dosing for
10 the lowest effective dose?"

11 Do you see where it says
12 that?

13 A. Yes.

14 Q. Okay. Are high-dosage
15 prescriptions potential red flags?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: Again, that --
18 that would be relying on a
19 pharmacist to more or less make
20 that -- as I said, in my loosely
21 pattern, in law enforcement, for
22 me it could be. For a pharmacist,
23 it may not be.

24 BY MR. HARRIS:

1 Q. Okay. So let's take a step
2 back then.

3 So this -- the dosage on a
4 prescription would be the scenario where
5 a pharmacist would need to use that
6 corresponding responsibility we talked
7 about, right?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: Their due
10 diligence.

11 BY MR. HARRIS:

12 Q. As well as corresponding
13 responsibility, correct?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: They do
16 utilize that.

17 BY MR. HARRIS:

18 Q. Okay. Because potential --
19 excuse me. They utilize corresponding
20 responsibility and due diligence because
21 high dosage prescriptions could
22 potentially be red flags, correct?

23 MR. KOBRIN: Object to form.

24 I don't know what it means

1 "utilize corresponding
2 responsibility."

3 Corresponding responsibility
4 is a legal term that is in a
5 regulation. They have a
6 corresponding responsibility.

7 I'm not sure I understand,
8 and my objection to form is I'm
9 not sure what it means to utilize
10 a corresponding responsibility.

11 BY MR. HARRIS:

12 Q. Mr. Shaheen, do you
13 understand my question?

14 A. If you -- I would appreciate
15 it if you could break that down more. I
16 mean, I'm -- a court -- pharmacists are
17 using due diligence. So they're looking
18 at a prescription, and based on -- on
19 their training, you know, based on
20 knowing, you know, the physician.

21 And that's -- I guess that's
22 why. I mean, I can't assume. But he's
23 asking is there a pattern of prescribing.

24 So I'm sure the pharmacist

1 is looking into that to answer that
2 question.

3 Q. Well, you don't know that
4 for sure, though, correct? You agree
5 that's what they're supposed to be doing,
6 but you can't confirm that for sure,
7 correct?

8 A. No, I cannot confirm it.

9 Q. Okay. But that's what they
10 are supposed to do, correct?

11 MR. KOBRIN: Object to form.

12 BY MR. HARRIS:

13 Q. Do their due diligence?

14 MR. KOBRIN: Object to form.

15 Misrepresents the evidence. This
16 is someone in corporate asking
17 follow-up questions to a team
18 leader.

19 MR. HARRIS: Josh, I
20 understand your position on being
21 able to object and state the
22 reason. I believe that means that
23 you can say objection, misstates
24 the document.

1 However, please limit your
2 objections. This is getting a bit
3 out of hand. Thank you.

4 MR. KOBRIN: Well, I'm not
5 going to allow to you mislead the
6 witness. He's not on this e-mail.

7 MR. HARRIS: Okay. Well,
8 let's go ahead and address that
9 issue then.

10 BY MR. HARRIS:

11 Q. Mr. Shaheen, will you flip
12 to the very first page of this e-mail,
13 please.

14 MR. KOBRIN: You interrupted
15 me again, Mr. Harris. He's not on
16 this particular e-mail. I
17 understand that this whole thread
18 is eventually forwarded to him. I
19 saw that when I opened the binder.

20 That doesn't mean that he
21 knows what's going on. And I am
22 uncomfortable with you
23 misrepresenting this
24 correspondence which he was not

1 involved in personally.

2 And so I'm going to clarify
3 the record if there's a
4 misrepresentation.

5 MR. HARRIS: Okay. Well,
6 you're welcome to ask any
7 questions you want on redirect.

8 BY MR. HARRIS:

9 Q. Mr. Shaheen, my question to
10 you was, pharmacists are supposed to
11 conduct due diligence when it comes to
12 prescribing controlled substances such as
13 opioids, correct?

14 A. Yes. They utilize their due
15 diligence not just with opioids, but with
16 every drug. Mm-hmm.

17 Q. Okay. And that's because
18 high dosage prescriptions are potential
19 red flags for diversion, correct?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: It is a
22 potential.

23 BY MR. HARRIS:

24 Q. Thank you. Let's move to

1 Number 7. It says, "Is there a pattern
2 of drug combinations?" And then in
3 parentheses it says, "Opiate,
4 benzodiazapine, muscle relaxant."

5 Do you see that?

6 A. I do.

7 Q. Are you familiar with this
8 combination of those three categories of
9 drugs?

10 A. Yes, I have seen that.

11 Q. Okay. Have you ever heard
12 those referred to as the trinity drugs or
13 Holy Trinity maybe?

14 A. Yes.

15 Q. Have you ever heard those
16 referred to as a drug cocktail?

17 A. Yes.

18 Q. Okay. Would you agree that
19 when a patient is prescribed these three
20 categories of controlled substance --
21 well, excuse me. Let me strike that.

22 Would you agree that when a
23 customer is prescribed these three groups
24 of drugs, that could potentially be a red

1 flag for diversion?

2 A. Potentially.

3 Q. Okay. Thank you.

4 Okay. Are there any other
5 potential indicate -- excuse me.

6 Are there any other
7 potential red flags that would be
8 indicators of diversion to you on this
9 list that we have not covered?

10 MR. KOBRIN: Take your time
11 to read it, Rick.

12 THE WITNESS: There may be,
13 but nothing comes to mind right
14 now.

15 BY MR. HARRIS:

16 Q. Fair enough. All right.
17 Let's go to the next e-mail in line.

18 We see that July 27, 2015,
19 Pharmacy 19 responds. And it appears
20 that they answer the questions, correct,
21 the 11 categories of questions that were
22 asked? We're going to work through some
23 of these as well.

24 A. Yes.

1 Q. Okay. So if you recall,
2 Question Number 1 --

3 MR. HARRIS: I don't know if
4 there's a way to do a side-by-side
5 of the list of questions, with the
6 answers maybe next to them. That
7 may be the easiest way to do this,
8 so Mr. Shaheen doesn't have to --
9 oh, it may be too small.

10 BY MR. HARRIS:

11 Q. We usually have pretty good
12 techs, Mr. Shaheen. Let's see if we
13 can't --

14 MR. KOBRIN: How big is your
15 screen?

16 MR. HARRIS: Oh, that's
17 true.

18 BY MR. HARRIS:

19 Q. Are you on a laptop,
20 Mr. Shaheen, or an iPad?

21 A. No, I'm on a laptop.

22 Q. Okay. Well, this may be
23 easier then. I don't know if your papers
24 are stapled. But if you want to remove

1 this first page from the binder so we can
2 kind of do a side-by-side, that may be
3 the easiest way for to you refer to it,
4 Mr. Shaheen. That's what I'm going to
5 do.

6 Let me know when you've got
7 this sorted out Mr. Shaheen, and I'll ask
8 my next questions.

9 A. I have that page up.

10 Q. Okay. So Question Number 1,
11 "Has your store experienced an overall
12 increase in prescription volume compared
13 to last year?" Here we see Pharmacy 19
14 responded, "Yes."

15 Do you see that?

16 A. I do.

17 Q. And do you agree in certain
18 situations, that could potentially be a
19 red flag for diversion, right?

20 A. Potentially, yes.

21 Q. Okay. Number 4, "Who are
22 the prescribers with unusual prescribing
23 patterns?" Here Pharmacy 19 answers, "We
24 are particular" -- excuse me. "We are

1 pretty meticulous in screening our
2 narcotic," and then, here, "Rxs," what do
3 you understand that to mean? I know you
4 said earlier it may have different
5 meanings?

6 A. Are you talking about the
7 response from 19 on Number 4? Is that
8 what you're asking?

9 Q. Yes, sir. So the response
10 from 19 -- from Pharmacy 19 to question
11 Number 4 is, "We are pretty meticulous in
12 screening our narcotic Rxs."

13 How do you read that
14 sentence?

15 A. I mean it's vague what he's
16 saying. He's screening Dr. Green. I
17 mean, it's vague. "We are pretty
18 meticulous in screening our narcotic
19 Rxs."

20 Q. Okay. But I think earlier
21 you said Rxs could be prescribers?

22 A. Prescriptions.

23 Q. Prescriptions.

24 A. In this case, I don't know

1 how he's using it. It could be, you
2 know, it could be a prescription.

3 Q. Okay. Fair enough. I was
4 just making sure there wasn't some
5 corporate lingo I was missing.

6 So the full answer to the
7 question, any prescribers with unusual
8 patterns, "We are pretty meticulous in
9 screening our narcotic Rxs." But then he
10 indicates, "Dr. Green, if any."

11 Do you see where it says
12 that?

13 A. Yes.

14 Q. Okay. And unusual
15 prescribing patterns could potentially be
16 red flags for diversion, right?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: Potentially.

19 BY MR. HARRIS:

20 Q. 7, "Is there a pattern of
21 drug combinations (opiate,
22 benzodiazapine, muscle relaxant)?"

23 And the answer to 7 from
24 Pharmacy 19, "Many pain" -- excuse me.

1 "Many pain clinics will do this but does
2 not seem excessive."

3 Do you see where it says
4 that?

5 A. I do.

6 Q. Okay. Let's -- let's go
7 ahead and go back to the very first page
8 of this e-mail. And at the very top, we
9 have a group e-mail from Joseph Millward
10 on July 28th, 2015, right?

11 A. Yes.

12 Q. He writes -- and you are on
13 this e-mail. Do you see where you are on
14 the carbon copy line? It says Gregory
15 Carlson, Richard Shaheen?

16 A. Yes.

17 Q. All right. He writes --
18 Mr. Millward writes, "Darren, 12 of the
19 15 oxycodone 30-milligram tablets were
20 for quantities of 120 or greater."

21 Do you see that?

22 A. I do.

23 MR. KOBRIN: Object to form.

24 You skipped an intervening e-mail.

1 So there's some context that's
2 going to be missing there. So I
3 think we either need to go through
4 it or you need to give the witness
5 a chance to read it.

6 BY MR. HARRIS:

7 Q. Is -- Mr. Shaheen, if you
8 need to read it, feel free. I'm just
9 asking you what the top e-mail says.

10 All right, Mr. Shaheen. So
11 the top e-mail says, "Darren, 12 of the
12 15 oxycodone 30-milligram tablets were
13 for quantities of 120 or greater."

14 Do you see where it says
15 that?

16 A. I do.

17 Q. Okay. And these were
18 oxycodone scripts that were being filled
19 by Pharmacy 19, right?

20 MR. KOBRIN: Object to form.

21 Not making -- he read this e-mail.

22 I don't think he knows from
23 experience or knowledge what this
24 means.

1 BY MR. HARRIS:

2 Q. You can go ahead,
3 Mr. Shaheen.

4 A. I don't know if they were
5 dispensed. I mean, it's not saying
6 dispensed. It's just saying those
7 quantities. So I don't know if they
8 turned those down.

9 Q. Okay. Then in the middle of
10 that paragraph, it says, "Also check to
11 see if there are any prescribing patterns
12 with any of the docs that would indicate
13 a lack of dose personalization (every
14 patient gets the same prescription)."

15 Do you see that?

16 A. I do.

17 Q. Okay. If there's a lack of
18 dose personalization, is that a potential
19 red flag for diversion?

20 A. Again, that would -- I don't
21 know -- I don't know if I would use that
22 as a red flag. Maybe -- maybe a
23 pharmacist -- I don't know about that
24 being a red flag.

1 Q. Okay.

2 A. I can't answer that one..

3 I'm sorry.

4 Q. Sure. It's okay.

5 The next paragraph says,

6 "Under Number 7, Scott indicates that

7 many of the patients present with the

8 trinity drugs. This is a concerning

9 pattern."

10 Do you see where it says
11 that?

12 A. You said Number 7?

13 Q. Yes, sir.

14 MR. KOBRIN: You're reading
15 from the first page though, right?

16 THE WITNESS: Oh, I'm sorry.

17 Yeah. Yes.

18 BY MR. HARRIS:

19 Q. So, yeah, sorry. The line
20 that I quoted is from the e-mail on the
21 first page from Joseph Millward referring
22 back to Number 7 answer from Scott from
23 Pharmacy 19.

24 A. Okay.

1 Q. Okay. So it says, "Under
2 Number 7, Scott indicates that many of
3 the patients present with the trinity
4 drugs. This is a concerning pattern."

5 Do you see that?

6 A. I do.

7 Q. Okay. Was this a concerning
8 pattern to you?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: You know,
11 if -- the document is sent to
12 Darren. If whatever came out of
13 it, if it was then sent to me,
14 then I would -- I would either
15 begin an investigation or refer
16 it, or if they felt that there was
17 enough due diligence to dispense,
18 again, relying on the pharmacist.

19 I don't recall if any of
20 this led to any type of
21 investigation with me or my unit.
22 So I -- I don't know. I don't
23 know where this was left.

24 Is there -- do you have more

1 documentation? I don't know where
2 this was left.

3 BY MR. HARRIS:

4 Q. Okay. Well, my question
5 isn't necessarily in this context. My
6 question was more broad.

7 If a pharmacy was telling
8 that you many patients present with
9 trinity drugs in their prescriptions, in
10 their written prescriptions, is that a
11 concerning pattern to you?

12 MR. KOBRIN: Object to form.
13 Hypothetical.

14 THE WITNESS: You know,
15 that -- again, you know, I'm
16 not -- I'm not a pharmacist. I'm
17 not a doctor.

18 Yes, you know, potentially
19 trinity drugs could be a red flag.
20 But again -- but again, if -- if
21 -- I don't know how many patients
22 were prescribed this and in what
23 manner. So I can't answer that
24 portion of it.

1 It -- as I said to you
2 previously, trinity drugs,
3 potentially. But to this, I
4 don't -- I don't know what was
5 done. I don't think it was sent
6 anywhere. I don't have an answer
7 as to what happened with -- and
8 how this case was left, which
9 would provide me with a better
10 answer to provide you.

11 MR. HARRIS: Motion to
12 strike everything after, "Yes, you
13 know, potentially trinity drugs
14 could be a red flag."

15 BY MR. HARRIS:

16 Q. All right. Mr. Shaheen, we
17 can put that document away.

18 MR. KOBRIN: Object to the
19 motion of striking a portion of
20 the response.

21 BY MR. HARRIS:

22 Q. Okay. So your role as a
23 pharmacy investigator, did you ever have
24 to train pharmacists or pharmacist techs?

1 A. No, I didn't train them.

2 Q. Okay. Did you ever provide
3 information on loss prevention to
4 pharmacists or pharmacist techs?

5 A. I did.

6 Q. Okay. Did you train them on
7 that topic?

8 A. No. It's -- it's a -- did I
9 provide information to them? Yes. You
10 know, we provided information to techs
11 and pharmacists.

12 Q. Okay. The information that
13 you provided, did you want to make sure
14 that it was accurate?

15 A. Yes.

16 Q. Okay. Did you want to make
17 sure they had all the information the
18 techs or the pharmacist may need?

19 A. As much as I could supply,
20 yes.

21 Q. Had they ever followed up
22 with you and asked you for additional
23 information, what would you have done to
24 get that for them?

1 A. Well, it depends on what
2 they would ask for.

3 Q. Okay.

4 MR. KOBRIN: Object to form.

5 BY MR. HARRIS:

6 Q. How many people were
7 providing training regarding
8 corresponding responsibility and due
9 diligence?

10 A. I'm sorry. I missed that.
11 I'm sorry.

12 Q. Okay. Well, let me strike
13 that then.

14 Would you also provide
15 training on corresponding responsibility
16 and due diligence?

17 MR. KOBRIN: Object to form.

18 He didn't -- he's already stated
19 that he --

20 THE WITNESS: I provided
21 information --

22 MR. KOBRIN: Rick, hold on.

23 Hold on. Let me finish my
24 objection. All right?

1 THE WITNESS: Okay. Sorry.

2 MR. KOBRIN: Object to form.

3 He's already stated that he
4 didn't -- he didn't classify what
5 he did as training for the
6 pharmacists and techs.

7 BY MR. HARRIS:

8 Q. You can go ahead and answer,
9 Mr. Shaheen.

10 A. As I said, I -- I didn't
11 train. I provided information to them.

12 Q. Okay. Did you provide
13 information regarding corresponding
14 responsibility and due diligence to
15 pharmacists?

16 A. Well, not corresponding
17 responsibility. They -- we have -- we
18 have a box in a pharmacy, and that
19 documentation is contained within.

20 You know, there -- there is
21 times where, you know, maybe you
22 reference the corresponding
23 responsibility to them. That's that
24 portion.

1 And what was the second half
2 of your question?

3 Q. Information regarding due
4 diligence.

5 A. You know, the due diligence
6 portion would be, you know, if a
7 discussion of, you know -- and oftentimes
8 it would just be a referral to their --
9 you know, utilize your judgment, whatever
10 that may be. And you know, looking for
11 them to assess if it's a prescription or
12 the doctor or a patient situation.

13 Q. So yes, you would provide
14 information on due diligence?

15 A. I wouldn't -- I wouldn't
16 provide it. They would provide
17 information. And if it warranted to go
18 to the next level, they would give me
19 that information. And, you know, if they
20 were -- you know, generally to request
21 them, to utilize their due diligence,
22 that was a common -- you know, that was a
23 common, without breaking it down, just
24 utilize your due diligence, which means

1 use your professional judgment.

2 Q. Was there anyone else
3 providing this information when you first
4 started at Giant Eagle?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: I don't know.

7 MR. HARRIS: Okay. Let's go
8 ahead and go to Tab 53. This is
9 P-HBC-1324. And this is going to
10 be Shaheen Exhibit 6.

11 (Document marked for
12 identification as Exhibit
13 Shaheen-6.)

14 BY MR. HARRIS:

15 Q. Mr. Shaheen, same thing for
16 these e-mails. We're going to start at
17 the most bottom one. This one is from
18 you, August 11th, 2015.

19 Do you see where it says
20 that? This is on the first page.

21 A. What exhibit number? 53.

22 Q. 53, yes, sir. Sorry?

23 A. 53, okay.

24 MR. KOBRIN: Tab 53, Rick.

1 It's going to be Exhibit 6.

2 MR. HARRIS: Or, yeah,
3 excuse me. That's correct. Tab
4 53. Exhibit Shaheen-6. I
5 apologize. Thank you, Josh.

6 BY MR. HARRIS:

7 Q. All right. Do you see where
8 this is an e-mail from you, Mr. Shaheen?

9 A. Yes.

10 Q. Okay. August 11th, 2015, to
11 Gregory Carlson, Joseph Millward, George
12 Chunderlik, and Reid Fleming, right?

13 A. Yes.

14 Q. And it says "Subject:
15 Procedural inconsistency."

16 Do you see where it says all
17 that?

18 A. Yes.

19 Q. Let's go ahead and start
20 reading this. "On July 30th, I received
21 a DEA fax notification from Pharmacy 1417
22 Geneva, Ohio (attached). I spoke with
23 the PDL regarding the missing 100-count
24 bottle of oxycodone 10 milligrams."

1 Do you see where it says
2 that?

3 A. I do.

4 MR. HARRIS: Let's go ahead
5 and highlight, "missing 100 count
6 bottle of oxycodone, 10
7 milligrams." All right.

8 BY MR. HARRIS:

9 Q. The next sentence, will you
10 go ahead and read the next sentence out
11 loud for me, Mr. Shaheen?

12 A. "I was informed that not all
13 of the Ohio stores are doing full back
14 counts of oxycodone products with their
15 perpetual log."

16 Q. Okay. Was that a problem to
17 you?

18 MR. KOBRIN: Again,
19 Mr. Shaheen, if you want to read
20 the whole exhibit before you
21 answer, please take the time.

22 THE WITNESS: Okay. Can you
23 give me a minute, please?

24 BY MR. HARRIS:

1 Q. Yeah. Yeah.

2 Now, let me tell you this,
3 Mr. Shaheen. We're going to go through
4 more of this document. So let's focus on
5 my part right now.

6 The sentence you just read,
7 "I was informed that not all of the Ohio
8 stores are doing full back counts of
9 oxycodone products with their perpetual
10 log," was that a problem for you?

11 A. Utilizing a perpetual log
12 minimized the amount of video that I
13 would have to review. So that was a tool
14 and an aid that I utilized to help me
15 review if there was a loss.

16 Q. Okay. And we'll get to, you
17 know, how busy in the scope of your
18 investigations.

19 But my question is, is it
20 problematic that Giant Eagle employees
21 are not following Giant Eagle policy? Is
22 that a problem for you?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: Well --

1 MR. KOBRIN: Asked and
2 answered.

3 MR. HARRIS: I don't believe
4 it was answered.

5 THE WITNESS: This --

6 MR. KOBRIN: It's giving you
7 more --

8 THE WITNESS: I mean, as
9 they're receiving product and
10 dispensing product, like I said,
11 it made it -- it made it easier
12 for me to minimize looking at
13 video and trying to make a
14 determination what if, in fact,
15 happened to this bottle, if it got
16 thrown away.

17 You know, we -- we would use
18 that tool as a part of an
19 investigative assist, if you will.

20 So having it, utilizing it
21 did minimize the time in what we
22 had to look for.

23 BY MR. HARRIS:

24 Q. Okay. Do you remember the

1 presentation that you did in 2015 that
2 we've already gone over?

3 MR. KOBRIN: Objection.

4 THE WITNESS: Yes. You mean
5 with the -- yeah.

6 BY MR. HARRIS:

7 Q. It was Shaheen Exhibit 3,
8 and I believe it's Tab 33, the one that
9 says "Perpetual Log" on it. You may not
10 be able to see this one. But you
11 remember this page. We talked about it.

12 A. Yes.

13 Q. And it says at the bottom,
14 "All pharmacists must comply," correct?
15 That's what it said at the bottom.

16 Feel free to flip back to
17 it. I don't want you to guess on this.

18 MR. KOBRIN: Is it Tab 33?

19 MR. HARRIS: It's Tab 33,
20 that's correct. It's about the
21 fifth -- it's almost in the
22 middle. I'm not sure. It's not
23 page numbered.

24 So can we pull this one back

1 up and pull it up for Mr. Shaheen?

2 We're going to come back to this

3 e-mail a little, but I want to

4 make sure -- here we go.

5 BY MR. HARRIS:

6 Q. Right here, Mr. Shaheen.

7 Perpetual log.

8 Right here at the bottom,

9 "All pharmacists must comply."

10 Do you remember seeing that?

11 A. Yes.

12 Q. Okay. And remember you

13 agreed that it was not an option, it was

14 a must?

15 MR. KOBRIN: Object to form.

16 BY MR. HARRIS:

17 Q. I believe earlier you

18 testified that it does not say may, it

19 says must; is that right?

20 A. Right.

21 Q. All right. Let's go back to

22 that e-mail.

23 A. Okay.

24 Q. Here we go.

1 MR. HARRIS: And that
2 sentence, if we can highlight it.

3 BY MR. HARRIS:

4 Q. "I was informed that not all
5 of the Ohio stores are doing full back
6 counts of oxycodone products with their
7 perpetual log."

8 You see that, right?

9 A. Yes.

10 Q. So based on what Giant Eagle
11 required that all pharmacists must
12 comply, that was not happening at all
13 Ohio stores in August of 2015, correct?

14 MR. KOBRIN: Object to form.

15 Misstates. Facts not in evidence.

16 THE WITNESS: There -- there
17 were -- there were some stores
18 that did not do full back counts.

19 BY MR. HARRIS:

20 Q. And they were required to,
21 right?

22 MR. KOBRIN: Object to form.

23 States facts not in evidence.

24 BY MR. HARRIS:

1 Q. I mean, that's what your
2 position said, isn't it, Mr. Shaheen?
3 "All pharmacists must comply." They were
4 required to do these back counts with
5 their perpetual logs, weren't they?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: Well, yes,
8 that's what it said. They must
9 comply.

10 BY MR. HARRIS:

11 Q. Okay. And here you're
12 indicating that not all of the Ohio
13 stores are complying, correct?

14 MR. KOBRIN: Object to form.

15 Mr. Shaheen, have you had a
16 chance to read the whole e-mail?

17 THE WITNESS: I'm looking at
18 it right now. Give me a second.

19 You know, again, you know --

20 BY MR. HARRIS:

21 Q. My question is very simple,
22 Mr. Shaheen.

23 A. Paragraph -- well, no, no,
24 this comes into play.

1 I mean, Paragraph 3 here.
2 POD, which is Pennsylvania, our
3 pharmacists were utilizing it and not
4 everybody in Ohio. And again, I'm not
5 quite sure, but I don't know when it was
6 applied in Ohio, because we started in
7 one little section that tested in
8 Pennsylvania, and then it migrated.

9 So I don't know at that time
10 if that was the case, and this could have
11 been an e-mail to push it that way. I
12 don't know when it hit Ohio.

13 So I can't say. I stated
14 here that, "Not all Ohio stores are doing
15 a full back count of the oxycodone
16 product. Therefore, the loss" -- and
17 then if you read subsequent to that,
18 that's what I'm indicating.

19 Q. Okay. Thank you. Let's go
20 to the third paragraph, the second
21 sentence. It says, "My concerns" -- this
22 is an e-mail that you wrote. This says,
23 "My concerns are that a regulatory agency
24 may find fault with the lack of our

1 consistency or not being proactive in
2 other regions for the same type of
3 losses."

4 Do you see that?

5 A. I do.

6 Q. So this was a potential
7 issue for Giant Eagle, not being able to
8 keep track of their products, right?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: No. I -- no.

11 What that's referring to is
12 making sure that we are consistent
13 throughout the chain. I don't
14 want one section to do it and not
15 the other. That's -- that's
16 what -- that's what that
17 indicates.

18 BY MR. HARRIS:

19 Q. Well, it also indicates that
20 your concerns are that a regulatory
21 agency -- let's stop there.

22 A regulatory agency, an
23 example of one would be the Ohio Board of
24 Pharmacy, correct?

1 A. They are a regulatory
2 agency, correct.

3 Q. Another example of a
4 regulatory agency would be the Drug
5 Enforcement Administration, correct?

6 A. Correct.

7 Q. Okay. So here, you write
8 explicitly, "My concerns are that a
9 regulatory agency may find fault with the
10 lack of our consistency or not being
11 proactive in other regions for the same
12 types of losses."

13 Do you see where it says
14 that?

15 A. Yes.

16 Q. Okay. And the type of loss
17 that we're discussing here is a missing
18 100-count bottle of oxycodone
19 10-milligram pills; is that right?

20 A. Yes.

21 Q. So it is a potential problem
22 for Giant Eagle that they are not able to
23 keep up with their prescription drugs,
24 mainly, in this e-mail, oxycodone,

1 correct?

2 MR. KOBRIN: Object to form.

3 Misstates the evidence.

4 THE WITNESS: Yeah, I

5 don't -- I don't agree with that.

6 BY MR. HARRIS:

7 Q. So you're okay with Giant

8 Eagle losing 100-count bottles of

9 oxycodone?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: No, no.

12 MR. KOBRIN: Misstates his

13 testimony.

14 Give me a chance to make an

15 objection.

16 THE WITNESS: Sorry.

17 BY MR. HARRIS:

18 Q. Okay. So what are your

19 concerns?

20 MR. KOBRIN: Object to the

21 form. Asked and answered.

22 THE WITNESS: My concern, as

23 I told you before, I needed -- I

24 needed a time frame. And if that

1 wasn't being utilized, then I
2 would have to look at a lot more
3 video to try to make a
4 determination where the loss, if
5 it was a loss, or whatever the
6 case may be, of what occurred.

7 BY MR. HARRIS:

8 Q. Okay. You had a broad range
9 of pharmacies that you had to cover,
10 right?

11 A. A what now?

12 Q. You had a broad range of
13 pharmacies that you were responsible for
14 covering in your potential
15 investigations, right?

16 A. I did.

17 Q. Okay. But it says it down
18 here, Please also consider the tools I
19 need to conduct my investigations in an
20 efficient manner.

21 Do you see where it says
22 that?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: Excuse me. I

1 see that.

2 BY MR. HARRIS:

3 Q. Okay. And one of the tools
4 is if they fill out the perpetual log
5 immediately after doing their data entry,
6 right?

7 MR. KOBRIN: Object to form.

8 Are you referring to this
9 exhibit still or are you referring
10 to the prior?

11 MR. HARRIS: I'm just asking
12 the question.

13 THE WITNESS: Yeah, please
14 ask that question again. I don't
15 know where -- what you're
16 referring to.

17 BY MR. HARRIS:

18 Q. Okay. You write, Please
19 consider the tools I need to conduct my
20 investigations in an efficient manner,
21 correct?

22 A. Effective manner.

23 MR. KOBRIN: Object to form.

24 You keep saying efficient. It

1 says effective.

2 MR. HARRIS: Effective. I

3 apologize. So let me -- all

4 right. Strike that.

5 BY MR. HARRIS:

6 Q. Mr. Shaheen, it says,

7 "Please also consider the tools I need to

8 conduct my investigations in an effective

9 manner," correct?

10 A. Correct.

11 Q. Okay. And one of the tools

12 that you rely upon are the perpetual

13 logs; is that true?

14 A. Correct.

15 Q. Okay. And if those

16 perpetual logs are filled out immediately

17 after, if the data is entered immediately

18 after a prescription, that makes it more

19 effective, correct?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: The -- I'm

22 sorry.

23 BY MR. HARRIS:

24 Q. I was going to say that I'm

1 not referring to anything on the document
2 at this point. I'm just asking you, if
3 having an accurate and updated perpetual
4 log, that's updated immediately after
5 prescribing, is that a tool to help you
6 investigate in an effective manner?

7 A. Having -- having that log
8 being utilized is an effective tool for
9 me, yes.

10 Q. And one of your concerns was
11 the amount of time that it was taking to
12 investigate all of these issues that were
13 popping up; is that true?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: You know, it
16 does take time if I don't know a
17 start and an end, yes.

18 BY MR. HARRIS:

19 Q. So the next sentence in that
20 e-mail says, "With me having the
21 responsibility of approximately 220
22 pharmacies, minimizing video review time
23 is very important."

24 Do you see where it says

1 that?

2 A. I do.

3 Q. So at this time, August 11,
4 2015, you alone were responsible for
5 investigating 220 Giant Eagle pharmacies;
6 is that true?

7 A. If Andrew wasn't hired at
8 that point, it's true.

9 Q. Okay. Well, we can agree
10 that Andrew -- and I think you said his
11 last name was Gaus? I'm not sure if I'm
12 saying it properly.

13 A. Gaus, mm-hmm.

14 Q. Gaus. Okay. Andrew Gaus is
15 not on this e-mail, correct, in the "to"
16 or "cc" chain?

17 A. That is correct.

18 Q. Okay. And you don't
19 reference -- you don't say, "Andrew and
20 me have the responsibility of 220
21 pharmacies," correct?

22 A. Yes, that's correct. But he
23 could have been hired by them. That's --

24 Q. I'm --

1 A. Yeah.

2 Q. Sorry. I didn't mean to cut
3 you off.

4 A. No, no, I mean not every
5 e-mail I'm on that Andrew is on and vice
6 versa.

7 Q. No, I understand that. But
8 at least here in this e-mail, we don't --
9 we don't have any, you know, clear
10 evidence that Mr. Gaus was helping you
11 with these 220 pharmacies and the
12 investigations pertaining to those,
13 right?

14 A. Correct.

15 Q. Okay. All right.
16 Mr. Shaheen I'm done with that document.

17 MR. HARRIS: I'll tell you
18 what, we've been going -- and I
19 know you're east coast; is that
20 correct, Mr. Shaheen.

21 THE WITNESS: Pittsburgh.

22 MR. HARRIS: Pittsburgh.

23 Okay. We've been going for about
24 an hour since our last break. So

1 I propose that we take another
2 break. We can go off the record
3 and discuss how long and if we
4 want to have this be our a lunch
5 break, since we're midday and
6 about 1 o'clock for the east coast
7 folks. So if everyone is okay,
8 then we'll go off the record.

9 MR. KOBRIN: That sounds
10 fine to me. Thank you.

11 THE VIDEOGRAPHER: Going off
12 the record. The time is 1:09.

13 - - -

14 (Whereupon, a luncheon
15 recess was taken.)

16 - - -

17 A F T E R N O O N S E S S I O N

18 - - -

19 THE VIDEOGRAPHER: We're
20 going back on record. The time is
21 1:42.

22 MR. HARRIS: Okay. Before
23 continuing, I want to address an
24 issue raised by defense counsel.

1 Earlier in the deposition,
2 defense counsel raised that he was
3 entitled to make speaking
4 objections.

5 During lunch, I checked the
6 order establishing deposition
7 protocol established for this MDL
8 litigation. Page 8 of that
9 deposition protocol does indicate,
10 and I quote, "Counsel shall
11 refrain from engaging in colloquy
12 during a deposition. No speaking
13 objections are allowed, and
14 professionalism is to be
15 maintained by all counsel at all
16 times. Counsel shall not be make
17 objections or statements that
18 might suggest an answer to a
19 witness."

20 Mr. Kobrin indicated there
21 was an order that was effectively
22 to the opposite extent, entitling
23 him to speak and then put his
24 objections on the record.

1 So I would ask before we
2 proceed, Mr. Kobrin, if you have
3 such an order, I would love to see
4 it before we -- before we move on.

5 MR. KOBRIN: You just read
6 from an order. What is that
7 order? Give me the document.

8 MR. HARRIS: Excuse me, sir?

9 MR. KOBRIN: What are you
10 reading from?

11 MR. HARRIS: This is from
12 "Order Establishing Deposition
13 Protocol" from MDL 2804 Docket
14 Number 643.

15 MR. KOBRIN: Is that a code
16 order?

17 MR. HARRIS: It looks like
18 it is signed by -- I apologize.
19 Judge Polster.

20 MR. KOBRIN: I actually
21 appreciate this. I remember
22 something from a long time ago
23 where this issue came up, and I
24 recall that there being a little

1 bit of latitude beyond "object to
2 form."

3 If that's not the case then
4 --

5 MR. HARRIS: I think a
6 little bit of latitude is far
7 surpassing what you've been doing,
8 so I'd love to see what you --

9 MR. KOBRIN: I don't agree
10 with that. I don't agree with
11 that. I don't think I
12 misrepresented anything.

13 This is from 2018. There is
14 an order on this particular issue
15 that follows this order,
16 Mr. Harris, where this was raised
17 with the special master and the
18 special master issued an opinion
19 on this particular issue.

20 I do not want to represent
21 it from memory because it was
22 about two years ago. If you want
23 to take a break now --

24 MR. HARRIS: Absolutely. I

1 do.

2 MR. KOBRIN: -- I can try to
3 find it. The only concern I have
4 is how late are we going to go?

5 MR. HARRIS: Well, that
6 depends on how many speaking
7 objections you intend to make and
8 how long your witness intends to
9 make his answers.

10 So let's go ahead and take a
11 break. I think if we can solve
12 the speaking objection issue here
13 pretty quick, it will definitely
14 cut down on the amount of time
15 that I have.

16 MR. KOBRIN: I don't consent
17 to a break right now. I don't
18 consent to a break right now.
19 We're not taking a break.

20 MR. HARRIS: Well, I didn't
21 consent to a break either, and
22 then we still went on a break. So
23 here we have some issues that
24 you're saying that you can do

1 things that you're not entitled
2 to.

3 MR. KOBRIN: Stop. When did
4 you not consent to a break?

5 MR. HARRIS: When we were in
6 the middle of an exhibit when I
7 was examining your witness and he
8 was refusing to answer my
9 question, and you said you were
10 going to go off the record.

11 MR. KOBRIN: My witness had
12 gone for over an hour and a half.
13 And you said that you were going
14 to finish an exhibit. And then we
15 waited 15 minutes. And you did
16 consent to the break. If you
17 don't consent to a break in the
18 future, please make that clear on
19 the record.

20 MR. HARRIS: I promise you I
21 will.

22 MR. KOBRIN: We would not
23 have taken that break if you
24 clearly said you didn't consent.

1 We would have proceeded, but I
2 would have potentially taken that
3 up with the special master because
4 I think not consenting to a break
5 after that long a period of
6 questioning on one exhibit and
7 during the first period of the
8 morning would have been completely
9 unacceptable.

10 MR. HARRIS: Well, let's
11 see. Do you have any colleagues
12 on?

13 MR. KOBRIN: If you would
14 like me to find -- you have dug up
15 an order from June of 2018. I
16 recall there being an opinion on
17 this particular issue from Special
18 Master Cohen.

19 I do not want to state it
20 verbatim. And I do not want to
21 pretend that I remember it
22 perfectly.

23 I'm willing to search for
24 that order. I am not willing to

1 waste more time during the day.

2 If you can give me a hard stop
3 time, I'll go off the record.

4 MR. HARRIS: I'm not going
5 to give you a hard stop time
6 because of your speaking
7 objections. I see at least one of
8 your colleagues on. What if they
9 find it and they can e-mail it
10 once they have an opportunity to
11 do it since they're not
12 participating.

13 MR. KOBRIN: Who's my
14 colleague? Who's my colleague?

15 MR. HARRIS: Is Thomas
16 Sidlinger from your firm?

17 MR. KOBRIN: He's from
18 plaintiffs' firm. I believe he is
19 from one of the plaintiffs' firms.
20 I don't think that matters. None
21 of my colleagues from my law firm
22 who represent Giant Eagle, to my
23 knowledge are --

24 MR. HARRIS: Well, here's

1 what we're going to do. Since I
2 have the only order on this record
3 right now that indicates no
4 speaking objections, that's what
5 we're going to do until you can
6 show me differently on the record.

7 So that's how we're going to
8 do it. So now we -- hold on.
9 Hold on. No, no, no.

10 MR. KOBRIN: You guys think
11 you --

12 (Simultaneous speaking.)

13 MR. HARRIS: I have an order
14 showing that there are no speaking
15 objections allowed.

16 Since you do not have an
17 opposing order to show me on
18 record right now, that's what
19 we're going to do.

20 MR. KOBRIN: This is an
21 ambush.

22 MR. HARRIS: So I suggest
23 you keep your objections --

24 MR. KOBRIN: This is an

1 ambush, Mr. Harris. It's
2 inappropriate. It's
3 unprofessional. If you had an
4 issue with this, we've had two
5 breaks you could have raised this
6 with me. You raised this only
7 when we went back on the record.

8 I have stated to you that an
9 order from Special Master Cohen on
10 this particular issue was
11 litigated. If you're not aware of
12 that order, that's your problem,
13 not mine. This is your
14 deposition. You can proceed
15 however you please.

16 I am going to keep making
17 objections that I feel are
18 appropriate and are allowed.

19 Now, if you want me to try
20 and find that order quickly, I can
21 do that.

22 MR. HARRIS: That's exactly
23 what I would like. Thank you.

24 MR. KOBRIN: Okay. Let's

1 stay on the record. Give me a
2 moment. I'm going to mute my
3 phone for a minute. I'm going to
4 see if I can find someone to do it
5 so that I don't continue to waste
6 part record time on this. All
7 right?

8 (Brief pause.)

9 MR. KOBRIN: I'm back. I
10 spoke to somebody who's going to
11 look into it. They recall that it
12 might have been during a
13 deposition where the Special
14 Master attended, and this issue
15 was litigated live on the record
16 similar to how it is now, and that
17 there was a speaking order from
18 Special Master Cohen, but they're
19 going to look for that or any
20 subsequent order that he may have
21 issued.

22 MR. HARRIS: Okay. Well,
23 how about we come to a gentlemen's
24 agreement?

1 If you want to limit it to
2 objection to form and the basis
3 without a colloquy until we can
4 sort it out, I'm okay with that.

5 But other than that, I think
6 that it goes beyond the order that
7 we do have currently.

8 MR. KOBRIN: Can you tell me
9 really quickly what is your
10 concern?

11 MR. HARRIS: My concern is
12 that you're coaching your witness
13 how to answer these questions,
14 which is the exact concern that
15 Judge Polster raises in this
16 order.

17 Your speaking objections are
18 indicating to this witness how he
19 should answer.

20 MR. KOBRIN: I will refrain
21 from speaking objections to
22 indicate the witness how they
23 should answer. But I'm not going
24 to refrain from objections where

1 you're misleading the witness.

2 MR. HARRIS: Well, if you
3 want to say objection to form,
4 misleading the witness, fine by
5 me. I'm okay with that.

6 Anything further, I will
7 object.

8 MR. KOBRIN: I'm going to
9 explain the objection. I'm going
10 to explain the objection. I don't
11 think that's how we have ever
12 been --

13 MR. HARRIS: Okay. Well,
14 this isn't going to get resolved
15 until we see that order.

16 So how about this? If it
17 comes to that point, I'll have to
18 get Special Master Cohen on the
19 phone.

20 MR. KOBRIN: If you want to
21 do that, that's your decision.
22 I'm going to try and dig up that
23 order for you. This doesn't end
24 your deposition. I don't think

1 I've been unreasonable in any way.

2 MR. HARRIS: Yeah, I do. I
3 disagree. I do.

4 So all right.

5 Mr. Shaheen, sorry --

6 MR. KOBRIN: Have you
7 attended -- Mr. Harris, have you
8 defended or taken depositions in
9 this case?

10 MR. HARRIS: Yes, I have.

11 BY MR. HARRIS:

12 Q. So Mr. Shaheen, are you
13 prepared to continue?

14 MR. KOBRIN: Can you tell me
15 the last deposition you took in
16 this case, Josh?

17 BY MR. HARRIS:

18 Q. Mr. Shaheen, are you ready
19 to continue?

20 MR. KOBRIN: Josh, I'm just
21 curious, did you take a deposition
22 in this Track 3 case?

23 MR. HARRIS: If you want to
24 discuss, we can go off the record.

1 We're not going to do this on my
2 record time. Thank you.

3 MR. KOBRIN: I don't want
4 to -- this is a complete ambush,
5 Josh. You could have raised it at
6 any time --

7 MR. HARRIS: This is not an
8 ambush. This is not an ambush.
9 This is an objection to your
10 improper continued objections.

11 So, okay, you object how you
12 feel is appropriate, and I'll
13 address it as I feel is
14 appropriate.

15 We're not going to waste any
16 more of my record time for it.

17 MR. KOBRIN: You ambushed
18 me. You didn't raise this to me
19 at any point on or off the record,
20 and you pulled up an order from
21 June of 2018, which I think was
22 resolved in later litigation.

23 So I think we can proceed,
24 and I'm fine with that. You said

1 that you might call the Special
2 Master. I told you that I would
3 have somebody look into it.

4 I told you I didn't want to
5 inadvertently misrepresent
6 anything, so I would try find the
7 source for my belief that I'm
8 allowed to say more than object to
9 form.

10 And I will try and keep my
11 objections to a minimum, which I
12 think I've done throughout this
13 deposition.

14 I'm not going to agree to a
15 gentlemen's agreement that's going
16 to limit me or that's going to
17 trap me going forward from
18 defending my witness.

19 MR. HARRIS: Okay. Well,
20 I'll proceed. And then on the
21 next break, we will solve this
22 before going back on the record.

23 All right?

24 BY MR. HARRIS:

1 Q. Mr. Shaheen, are you ready
2 to continue?

3 THE COURT REPORTER: You're
4 on mute.

5 BY MR. HARRIS:

6 Q. I think you're muted.

7 A. There. I was -- sorry.

8 Q. All right. Great.

9 All right. So we left off
10 the deposition -- I want to -- I want to
11 go back and cover a few things.

12 You mentioned that Giant
13 Eagle, in regards to, you know,
14 protecting against diversion, goes above
15 and beyond, correct?

16 A. I did.

17 Q. Okay. Do you still believe
18 that after our lunch break?

19 A. I still believe that.

20 Q. Okay. I also asked you
21 earlier if you had an opportunity to ever
22 investigate Giant Eagle pharmacies. And
23 I believe your answer was no; is that
24 correct?

1 A. As an agent, I -- I don't
2 remember ever investigating Giant Eagle
3 pharmacy.

4 Q. And when you say agent,
5 you're referring to your time as an agent
6 for the Pennsylvania AG's office?

7 A. During that time period from
8 2000 until my retirement in 2013, I don't
9 recall that, yes.

10 Q. Sure. Understood. What
11 about since being hired by Giant Eagle?
12 Have you ever investigated Giant Eagle
13 pharmacies for evidence of diversion?

14 A. I don't recall.

15 Q. Okay. So let me ask you
16 this. Have you ever found evidence of
17 Giant Eagle diverting controlled
18 substances, particularly opioids?

19 MR. KOBRIN: Object to form.

20 Vague.

21 THE WITNESS: What are you
22 referring to? The time period
23 that I was an agent or the time
24 period that I'm employed here?

1 BY MR. HARRIS:

2 Q. Let me make it a little bit
3 more narrow with the time.

4 So during your time employed
5 with Giant Eagle, have you ever found
6 evidence that Giant Eagle committed
7 diversion of their opioids?

8 A. That, to me, is somewhat
9 misleading. Reason being is I don't -- I
10 don't see Giant Eagle committing
11 diversion.

12 Your question is like an
13 intentional act, and I don't see that as
14 something that we did.

15 Q. Okay. So you're saying that
16 Giant -- no Giant Eagle employee has ever
17 committed an intentional act of
18 diversion? I want to make sure I get
19 that right.

20 A. No, I'm not -- no, you
21 didn't say -- you didn't say an employee.
22 Now you said employee.

23 Yes. Have I had cases where
24 an employee had taken controlled

1 substances? Yes.

2 Q. Okay. A Giant Eagle
3 employee, right?

4 A. Correct.

5 Q. Okay. And they acted on
6 behalf of and to the benefit for Giant
7 Eagle; is that correct?

8 MR. KOBRIN: Objection to
9 form.

10 THE WITNESS: If they were
11 employed at Giant Eagle.

12 BY MR. HARRIS:

13 Q. Correct. Giant Eagle
14 employees, that's what I'm referring to,
15 right?

16 A. Yes, that's correct. Yes.

17 Q. Okay. And diversion can
18 appear in many forms. Would you agree to
19 that?

20 MR. KOBRIN: Object to form.
21 Vague.

22 THE WITNESS: It can appear
23 differently.

24 Do you have -- is there

1 something specific that you're
2 referring to that I can answer yes
3 and no for you to that?

4 BY MR. HARRIS:

5 Q. Sure. Okay. Let me give
6 you some examples of what could
7 potentially be diversion. Theft of
8 prescription drugs, including opioids,
9 can be an example of diversion, right?

10 A. Potentially.

11 Q. Is there ever a scenario
12 where theft of prescription drugs,
13 including opioids, is not diversion? Is
14 there a scenario in your mind you can
15 think of that it's okay for a Giant Eagle
16 to steal prescription drugs, including
17 opioids?

18 A. No. It's not okay.

19 Q. Because it's diversion,
20 correct?

21 A. Potentially diversion.

22 Q. Okay. When is it not
23 potentially diversion? When is it okay
24 to steal prescription drugs, including

1 opioids?

2 MR. KOBRIN: Object to form.

3 Misrepresents prior testimony.

4 THE WITNESS: Yeah,

5 that's -- yeah, if somebody,

6 whether inside or outside, steals

7 opioids, it could potentially be

8 used as or coined to phrase

9 diversion. Yes, it can be

10 diverted.

11 BY MR. HARRIS:

12 Q. The actual theft of the

13 opioids is evidence of diversion, though,

14 isn't it, Mr. Shaheen?

15 A. Yes.

16 Q. The filling of invalid

17 prescriptions can be an example of

18 diversion, can't it, Mr. Shaheen?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: It could be,

21 yes.

22 BY MR. HARRIS:

23 Q. Not conducting proper due

24 diligence and losing prescription drugs,

1 including opioids can be diversion, can't
2 it, Mr. Shaheen?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: You said
5 several things there again.

6 BY MR. HARRIS:

7 Q. I can break it up if that
8 makes it easier for you.

9 A. Please repeat it.

10 Q. Absolutely. Well, let me do
11 this. Let me break it up into, you know,
12 smaller bits.

13 Not conducting due diligence
14 regarding prescription drugs can be
15 diversion, correct?

16 A. It potentially could be --
17 potentially be diversion.

18 Q. Okay. So when is a scenario
19 that it's okay to not use due
20 diligence -- or conduct due diligence,
21 excuse me, regarding prescription drugs
22 including opioids?

23 MR. KOBRIN: Object to form.

24 Misrepresents prior testimony.

1 THE WITNESS: Because --

2 BY MR. HARRIS:

3 Q. Go ahead, Mr. Shaheen.

4 A. If -- if a prescription is
5 filled and they conducted due diligence,
6 and it's filled on a legitimate basis,
7 it's not diversion.

8 Q. I tend to agree with you for
9 once. My question was different, though.
10 My question was the lack of due diligence
11 and then filling a prescription, is an
12 incident of diversion, isn't it?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: No, not
15 necessarily.

16 BY MR. HARRIS:

17 Q. When is it okay to not
18 conduct due diligence?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: The times our
21 pharmacists will know a patient,
22 know the doctor, and based on that
23 knowledge, I mean, that's a form
24 of due diligence, and may fill

1 that prescription.

2 BY MR. HARRIS:

3 Q. Do your pharmacists know
4 their coworkers?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: Yes.

7 BY MR. HARRIS:

8 Q. You would agree that losing
9 pills can potentially be an example of
10 diversion, pills including opioids?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: Yes,
13 potentially. Yes.

14 BY MR. HARRIS:

15 Q. Okay. All right. Let's
16 move on now to -- back to our folder. Do
17 you still have that handy?

18 A. I do.

19 Q. Okay. Let's look at -- I
20 apologize, I need to find my tab. This
21 is going to be Tab 54 in your folder.

22 MR. HARRIS: This is going
23 to be P-HBC-1325. And I believe
24 this is going to be Shaheen-7, for

1 the record.

2 (Document marked for
3 identification as Exhibit
4 Shaheen-7.)

5 BY MR. HARRIS:

6 Q. Mr. Shaheen, when you get
7 there, please let me know, and we'll go
8 ahead and address it.

9 A. Tab 54, I'm there.

10 Q. Okay. This is not a
11 terribly long e-mail, so we're going to
12 cover most of it, so if you want to read
13 along with me. It says from Gregory
14 Carlson at the top.

15 Do you see that?

16 A. I do.

17 Q. All right. This was sent
18 Monday August 17th, 2015 to a group of
19 people, including yourself. You see your
20 name on there, Richard Shaheen, the
21 second line?

22 A. I do.

23 Q. Okay. The subject was,
24 "Pharmacy team leader calls." There's an

1 attachment. And the importance says
2 high.

3 Do you see where it says all
4 that?

5 A. Yes.

6 Q. Okay, great. Mr. Carlson
7 writes, "Team, the team leader calls are
8 set for this week, Tuesday, Wednesday and
9 Thursday. One PDL will be in charge of
10 dialing in as the chairperson for each
11 call."

12 Do you see where it says
13 that?

14 A. I do.

15 Q. Okay. Skipping the next
16 sentence. You can read it over if you
17 want. "Each speaker can introduce the
18 next speaker when they are done (I
19 introduce Adrienne, Adrienne introduces
20 Joe, et cetera)."

21 Do you see that?

22 A. I do.

23 Q. The next line says, "See
24 your times below. We have packed the

1 whole hour, so please make sure not to
2 exceed your allotted time," right?

3 A. Yes.

4 MR. HARRIS: Okay. Let's go
5 ahead and pull up and zoom in
6 on --

7 BY MR. HARRIS:

8 Q. Well, you're happy to look
9 over the first page, if you want. But
10 I'm going to direct your attention to the
11 second page. Since you were on this
12 e-mail, you were actually making a
13 presentation; isn't that right?

14 MR. KOBRIN: And feel free
15 to read what you need to, Rick.

16 THE WITNESS: Yeah, yeah,
17 no, I see it.

18 BY MR. HARRIS:

19 Q. Okay. So then it says,
20 "Loss prevention, Rick Shaheen, five
21 minutes," correct?

22 A. Yes.

23 Q. Okay. Did you ask for more
24 time to present on this subject?

1 A. I don't recall.

2 Q. And then under yours, we
3 have some sub-points. It says, "A,
4 return of C-IIs to locked cabinet safe
5 after final verification."

6 Do you see that?

7 A. Yes.

8 Q. And C-II refers to
9 Schedule II controlled substances, right?

10 A. Yes.

11 Q. "B, properly completing
12 Oxycodone full back counts, enter data
13 into perpetual log."

14 You see where it says that,
15 right?

16 A. Yes.

17 Q. So at this point, this
18 e-mail was from August 2015. You're
19 still having to remind Giant Eagle
20 employees to complete the full back
21 counts and enter the data into a
22 perpetual log, right?

23 MR. KOBRIN: Object to form.

24 Facts not in evidence.

1 Misrepresents the document.

2 BY MR. HARRIS:

3 Q. You can go ahead,

4 Mr. Shaheen.

5 A. Stores were using paper -- a
6 paper log.

7 Q. Okay. I don't believe that
8 was my question. So let's look at this
9 bullet point again.

10 A. Go ahead.

11 Q. It says, "Properly
12 completing Oxycodone full back
13 counts/enter data into perpetual log."

14 Is that what it says there?

15 A. Yes.

16 Q. You would agree this was a
17 topic that you were going to cover in
18 your five-minute presentation?

19 A. Yes.

20 Q. Okay. So let's take a step
21 back.

22 Did Gregory Carlson create
23 this agenda, or did you add the three
24 sub-points to your presentation?

1 A. I believe I would have added
2 those points.

3 Q. Okay. Why would you have
4 added Point B to this presentation?

5 A. I wanted to ensure that they
6 were utilizing the document correctly and
7 following through to enter the data into
8 the perpetual log.

9 Q. Okay. And they were
10 required to enter the data immediately,
11 correct?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: They would
14 enter the data as soon as they
15 could.

16 BY MR. HARRIS:

17 Q. Well, hold on, Mr. Shaheen.
18 That's not what that document that we
19 looked at said earlier. I'm happy to
20 pull it back up if you want.

21 Do you remember what I'm
22 referring to, your presentation from
23 2015? I believe it was Tab 33.

24 Would you like to look at it

1 again with me?

2 A. Okay.

3 Q. Do you remember this one,
4 the document that says perpetual log on
5 it? Here we go.

6 It says, "Enter data in log
7 immediately after final verification."

8 That's what you put in this
9 presentation, correct?

10 A. Yes.

11 Q. Okay. So is that different
12 than the message that you gave on this
13 August 17th, 2015 pharmacy team leader
14 meeting?

15 A. Well, as I explained --

16 MR. KOBRIN: Object to form.

17 Object to form. Sorry.

18 BY MR. HARRIS:

19 Q. Go ahead, Mr. Shaheen.

20 Sorry.

21 A. Sorry.

22 Q. No, you're okay.

23 A. The properly -- properly
24 completing Oxycodone full back

1 counts/enter data into perpetual log, you
2 know, it was a reminder to them to enter
3 the data into the perpetual log when they
4 finished. That's what that was.

5 Q. Okay. But really, in
6 conjunction with this other presentation,
7 they have to enter the data in the log
8 immediately after a final verification.
9 That's what this says, right?

10 A. Yes.

11 Q. And it also, on this
12 perpetual log slide at the bottom, it
13 says, "All pharmacists must comply."

14 Do you remember reading that
15 as well?

16 A. Yes.

17 Q. Okay. And then finally on
18 the new document, the agenda. It says
19 C -- "Double count C-T" -- excuse me
20 "C-II prescriptions," right?

21 A. Correct.

22 Q. Okay. Do you recall if this
23 quarterly team leader call ever happened?

24 A. I -- yes, I believe it

1 happened, yes.

2 Q. Okay. And if you turn to
3 the third page, I'm really just looking
4 at the title. It looks like this was the
5 attachment to the e-mail, "Quarterly team
6 leader call." Do you recall Giant Eagle
7 having these quarterly team meetings?

8 A. Yes.

9 Q. Do they still have those
10 quarterly team meetings?

11 A. Yes.

12 Q. Okay. All right. So we're
13 done with that one. Let's go ahead and
14 move on.

15 I'd like to turn your
16 attention to -- let me ask you this.

17 Where do you live,
18 Mr. Shaheen?

19 A. I'm sorry. I didn't hear
20 you.

21 Q. Where do you live? Just the
22 city is fine. I don't need the whole
23 address. I know we have it somewhere.

24 A. Greensburg, PA.

1 Q. Okay. Have you ever been to
2 Lake County, Ohio?

3 A. Yes.

4 Q. Have you ever been to
5 Trumbull County, Ohio?

6 A. Yes.

7 Q. Okay. Were you in those
8 counties investigating Giant Eagle
9 pharmacies or issues related to Giant
10 Eagle pharmacies?

11 A. I was there for Giant Eagle
12 business, yes.

13 Q. Okay. Let's go ahead and
14 turn to some documents that relate to
15 these two counties. We're going to go
16 skip ahead to -- before we get there, you
17 said that you were doing Giant Eagle
18 business.

19 Did you ever find evidence
20 of diversion from Giant Eagle or Giant
21 Eagle employees in Lake County?

22 MR. KOBRIN: Hold on one
23 second. Can you repeat that?

24 It's not coming through on my

1 feed, and I didn't hear you. It
2 froze up.

3 MR. HARRIS: I've got it on
4 mine. I'm not sure.

5 MR. KOBRIN: It says, "Did
6 you ever find" -- okay. "Did you
7 ever find evidence of diversion
8 from Giant Eagle or Giant Eagle
9 employees in Lake County?"

10 MR. HARRIS: Yes.

11 BY MR. HARRIS:

12 Q. Mr. Shaheen, do you need me
13 to repeat it?

14 A. No.

15 Q. You know what? Let's
16 just -- just to make sure that I have a
17 clean record, I actually would prefer to
18 repeat it. So let me re-ask the
19 question.

20 Mr. Shaheen, did you ever
21 find evidence of diversion from Giant
22 Eagle or Giant Eagle employees in Lake
23 County, Ohio?

24 A. I -- I don't exactly know

1 every city that's in Lake County. So I
2 can't answer verbatim there.

3 If one of the stores that I
4 investigated had diversion and it was in
5 Lake County, then yes, I would have.

6 Q. Did you ever find evidence
7 of diversion from Giant Eagle or Giant
8 Eagle employees in Trumbull County, Ohio?

9 A. In -- you know, it's kind of
10 the same answer. I don't know every city
11 that's in those counties or the store
12 that's in a county like I do in
13 Pennsylvania, just because of my
14 familiarity with this state versus Ohio.

15 So if I was there in Ohio
16 and diversion occurred in our pharmacy, I
17 would say -- if it was in that county, I
18 would say yes.

19 Q. You agree that diversion has
20 contributed to what you identified as the
21 opioid problem in this country?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: I would agree
24 that opioids have been a problem

1 in this country.

2 BY MR. HARRIS:

3 Q. Okay. Thank you for that.

4 Do you agree that the
5 diversion of opioids has contributed to
6 enhance that problem in this country?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: Yes. I would
9 say that that is true.

10 BY MR. HARRIS:

11 Q. Okay. Let's turn to Tab 16
12 in your folder.

13 MR. HARRIS: This is
14 P-HBC-1284, and I believe this is
15 going to be Shaheen-8 for the
16 record.

17 (Document marked for
18 identification as Exhibit
19 Shaheen-8.)

20 THE WITNESS: 16?

21 MR. HARRIS: Tab 16, yes,
22 sir.

23 BY MR. HARRIS:

24 Q. Okay. Are you familiar with

1 these forms, Mr. Shaheen?

2 A. I am.

3 Q. All right. Let's get
4 oriented. We're going to look at a few
5 of these. I'd like to take a little time
6 on the first one to let the jury know
7 what we're looking at. This is the Giant
8 Eagle pharmacy suspected controlled
9 substance loss DEA notification form,
10 correct?

11 A. Correct.

12 Q. Okay. And these are used in
13 scenarios where, like it says in the
14 title, there's a suspected loss of a
15 controlled substance, right?

16 A. Correct.

17 Q. You indicated that losing
18 controlled substances, including opioids,
19 can potentially increase diversion,
20 right?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Correct.

23 BY MR. HARRIS:

24 Q. So this form is dated

1 10/20/2014.

2 Do you see that?

3 A. Yes.

4 Q. It says, "Dear Agent in
5 Charge." Is that referring to the DEA
6 agent? I know -- I know you may not know
7 specifically, but generally, is that
8 referring to the DEA agent?

9 MR. KOBRIN: Josh, really
10 quick, is this a standalone
11 document, do you know? Or is it
12 part of a family?

13 MR. HARRIS: As far as I
14 know, this was the form that was
15 produced. During the break, I can
16 see about having someone check.
17 But I believe we got it as a
18 standalone.

19 MR. KOBRIN: Got it. Thank
20 you.

21 MR. HARRIS: Yep.

22 BY MR. HARRIS:

23 Q. Let me re-ask my question
24 Mr. Shaheen.

1 So these are submitted to
2 the DEA, right?

3 A. Yes.

4 Q. So where it says, "Dear
5 Agent in Charge," that's referring to the
6 DEA agent, correct?

7 A. Yes.

8 Q. Okay. That's not referring
9 to you or later when he joined Austin,
10 right?

11 A. Correct.

12 Q. Okay. Thank you. Then
13 there's a paragraph. Then under the
14 paragraph, it says details and date of
15 suspected loss.

16 Do you see that?

17 A. I do.

18 Q. Okay. Let's go ahead and
19 look at this one. Let's highlight the
20 reason. It says, "Monthly narcotic audit
21 performed on 10/19 showed
22 hydrocodone/APAP 10/325-milligram tabs
23 missing."

24 Do you see where it says

1 that?

2 A. Yes.

3 Q. Okay. Then it says
4 afterwards, "After research, expected to
5 have lost 2,044 tablets."

6 Do you see where it says
7 that?

8 A. I do.

9 Q. Okay. And it says Giant
10 Eagle Pharmacy Number 1405, right?

11 A. Correct.

12 Q. Okay. If you go back to
13 that sheet that you referred to earlier,
14 what I'm referring to is one of the
15 exhibits, P-HBC-1359, that was marked in
16 your deposition.

17 This is the pharmacy list.
18 Do you remember looking at this earlier?

19 A. Yes.

20 Q. Okay. So if we go to find
21 out 1405, which is on Page 3, I think
22 it's about the eighth one down, Pharmacy
23 1405, we can see that this pharmacy is
24 located in Trumbull County, correct?

1 A. Yes.

2 Q. Okay. So a pharmacy in
3 Trumbull County has lost -- has expected
4 to have lost 2,044 tablets of
5 hydrocodone, correct?

6 A. Yes.

7 Q. Okay. And we see down here,
8 pharmacy address 48 Vienna Avenue, Niles,
9 Ohio, 44446.

10 That's the address, right?

11 A. Yes.

12 Q. Okay. All right. Now, you
13 say Giant Eagle goes above and beyond to
14 prevent diversion. Is this an evidence
15 of Giant Eagle going above and beyond to
16 prevent diversion?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: When things
19 like this are reported, we
20 immediately go -- contact the
21 board. We immediately start what
22 we call covert counts to identify
23 if it is a problem internally or
24 if it's a problem with our data.

1 And it is also provided to
2 our data people so we can do the
3 research to see if this is an
4 appropriate loss or if, in fact,
5 it was data, because sadly
6 sometimes data does affect these.

7 And instead of not reporting
8 it, we would report this -- these
9 kind of scenarios.

10 BY MR. HARRIS:

11 Q. How many other times has
12 data reflected a loss of 2,044
13 hydrocodone tablets in the time you've
14 been employed by Giant Eagle?

15 A. I don't -- I can't tell you
16 the quantities. But we've had data that
17 has shown that if something is double
18 ordered, and that product never was
19 received, it would throw off the number;
20 therefore, until we found out what had
21 happened with that product, then, you
22 know, we would fill out a DEA 106 and
23 then make an amendment if we found it or
24 you know, try to look at video and do

1 these counts, like I said, and, you know,
2 report the information to the Ohio Board.

3 Q. Okay. Thank you. And then
4 we saw -- just to make sure before we
5 move on, this is October 20th, 2014. Do
6 you see that at the top, the date?

7 A. Correct.

8 Q. Okay. Let's go ahead and
9 turn to another exhibit.

10 This is going to be Tab 11,
11 11 in your binder.

12 MR. HARRIS: This is
13 P-HBC-1279, and we'll mark as
14 Shaheen-9.

15 (Document marked for
16 identification as Exhibit
17 Shaheen-9.)

18 BY MR. HARRIS:

19 Q. Let me know when you get to
20 that one, Mr. Shaheen. And this one
21 might be weird because I think it was
22 printed out in landscape versus portrait.

23 A. Tab 11?

24 Q. Yes, sir.

1 MR. KOBRIN: This is what
2 exhibit again, Josh? This is 9?

3 MR. HARRIS: This is
4 Shaheen-9. Yes, that's correct.

5 THE WITNESS: Okay.

6 MR. HARRIS: If I'm wrong, I
7 hope someone stops me before the
8 whole numbering is off.

9 BY MR. HARRIS:

10 Q. Do you see this exhibit,
11 Mr. Shaheen?

12 A. Yes.

13 Q. Okay. This is an e-mail
14 from Nicole Deluco.

15 Do you see that at the top?

16 A. Yes.

17 Q. On Monday, November 10,
18 2014, so less than 30 days from the DEA
19 form that we just looked at, right?

20 A. Okay.

21 Q. Okay. That's correct? This
22 is less than 30 days from the last form
23 we looked at?

24 A. I -- sorry, I've lost that

1 page.

2 Q. No problem. I can tell you.
3 It was Tab 16, so not too far, and it was
4 October 20th, 2014, right?

5 A. Yeah, I found it. Yep.

6 Q. Okay. So less than 30 days,
7 we have this e-mail from Nicole Deluco.
8 You're cc'd on here. And it says "1405
9 Audit Question" is the subject.

10 Do you see that?

11 A. Yes.

12 Q. And do you understand 1405
13 to refer to the pharmacy number in this
14 scenario?

15 A. Yes.

16 Q. Which is the same pharmacy
17 that we looked at on Exhibit Shaheen-8?

18 A. Yes.

19 Q. Also in Trumbull County?

20 A. Yes.

21 Q. Okay. Let's read the e-mail
22 together.

23 It says, "Hey, Donna. Last
24 night I was doing an audit in Niles,

1 1405, and I came across a discrepancy
2 with hydrocodone/APAP 10/30" -- or excuse
3 me -- "10/325 that I can't figure out.
4 I'm wondering if it's possibly a data
5 issue."

6 Do you see where it says
7 that?

8 A. Yes.

9 Q. Okay. We're going to go
10 down to the paragraph that starts,
11 "Here's where it gets odd." Let me know
12 when you find that paragraph. Feel free
13 to browse over the others too.

14 A. Okay.

15 Q. All right. It says, "Here's
16 where it gets odd. I ran a controlled
17 drug report. It's showing that five
18 scripts for a total of 465 tabs were
19 dispensed under that NDC on 11/7/14."

20 Do you see that?

21 A. I do.

22 Q. It goes on to say, "I show
23 no purchases for it after reviewing their
24 C-II invoices, and my audit isn't

1 reflecting 465 being dispensed under that
2 NDC."

3 Do you see that?

4 A. I do.

5 Q. Okay. She asked, "Could
6 this be a data issue?" Right?

7 A. Yes.

8 Q. Okay. So in less than
9 30 days -- hold on one second. Okay. In
10 less than 30 days, this one pharmacy in
11 Trumbull County has reported 2,509
12 hydrocodone potentially missing; is that
13 right?

14 MR. KOBRIN: Object to form.

15 BY MR. HARRIS:

16 Q. The other one was 2,044.
17 This one is 465. I mean, feel free to
18 stop and do the math if you want.

19 A. Yeah, I did.

20 Q. Okay. So in less than
21 30 days, this one pharmacy has reported
22 2,509 pills potentially missing; is that
23 right?

24 A. That's correct.

1 Q. Okay. Is this another
2 example of Giant Eagle going above and
3 beyond to prevent diversion?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: We -- in cases
6 like this, as I said, if -- if
7 behind the scenes data was being
8 examined to try to determine this,
9 we were -- I can't remember if I
10 did counts or Chris did counts.

11 I know the Ohio Board was
12 contacted. You know, so obviously
13 with these reports, it just didn't
14 sit.

15 Giant Eagle did, like I
16 said, the cold audits, which is
17 taking out technology.

18 And our results from those
19 audits showed that nothing was
20 missing during a particular time
21 period.

22 BY MR. HARRIS:

23 Q. Okay. Anything else? I
24 just want to make sure that I didn't cut

1 you off.

2 A. No, no. You didn't cut me
3 off.

4 Q. Okay. All right. Let's go
5 ahead and look at the next exhibit. This
6 is going to be Tab 28, Tab 28 in your
7 folder.

8 MR. HARRIS: And it's
9 P-HBC-1299. This will be Shaheen
10 Exhibit 10, for the record.

11 (Document marked for
12 identification as Exhibit
13 Shaheen-10.)

14 THE WITNESS: 28?

15 MR. HARRIS: Yes. Yes, sir.
16 28. Shaheen-10.

17 BY MR. HARRIS:

18 Q. Now, Mr. Shaheen, I'll
19 represent to you and counsel that this is
20 the form this document was produced in.
21 I'd like to walk through it with you,
22 Mr. Shaheen. I believe these are two
23 separate instances from the same store,
24 but I am hoping that you can confirm that

1 for me, candidly.

2 So if you have any questions
3 as we're looking through this, let me
4 know, okay?

5 So we're looking at Exhibit
6 Shaheen-10.

7 This is the front page. At
8 the top, we see it's labeled
9 "Prescription Pickup Signature."

10 Do you see that on this
11 form?

12 A. Yes.

13 Q. Okay. And then we can also
14 tell that there's some handwriting around
15 here on this document in its entirety.

16 Do you see that?

17 A. I do.

18 Q. Okay. Do you recognize any
19 of that handwriting to be yours by
20 chance?

21 A. Yes. The top right in that
22 little box. I'll read it. 400 -- I
23 don't know if that's an eight or a two --
24 "Ohio, on Rx filled by our pharm."

1 And below that, I don't know
2 what "1213 drop-off," that's not me.
3 "Video given to police in September by me
4 and Andrew."

5 So again, I don't know if I
6 gave it or Andrew, but one of us gave the
7 police video.

8 Q. Okay. And just to be clear,
9 it says RAS. I'm assuming those are your
10 initials?

11 A. Yes, they are.

12 Q. Okay, perfect. Okay.
13 Great. Well, if you look at the
14 customer -- or excuse me, the pharmacy
15 list I provided, it indicates that 4002
16 is the Church Hill Commons pharmacy, also
17 in Trumbull County. That's on Page 4.
18 Feel free to go back and confirm that if
19 you'd like.

20 A. Okay.

21 Q. Just so the record is clear,
22 the customer list is Shaheen-2, and that
23 was Tab 37 in your binder. But I think
24 you pulled it out for ease of access.

1 A. Okay.

2 Q. Were you able to confirm
3 that store -- or that Pharmacy 4002 is a
4 pharmacy in Trumbull County, Ohio?

5 A. It -- yes, it is in
6 Trumbull.

7 Q. Okay. Great. So here, as
8 you just testified, you wrote, "Stolen
9 prescription filled by our pharm," right?

10 A. Yes.

11 Q. And does pharm stand for
12 pharmacist?

13 A. Pharm stands for pharmacy.

14 Q. Pharmacy. Okay. So the
15 pharmacy in whole as opposed to versus
16 one pharmacy?

17 A. Yes.

18 Q. Okay. Thank you.

19 And then this was -- it
20 looks like the prescription pickup
21 signature, is that the documentation that
22 you provided to the police?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: I -- at this

1 point, I don't know if this was
2 provided by me or -- because the
3 writing on it may be at that time
4 the pharmacist documented that,
5 and then put stuff over top. And
6 then I got what she gave the
7 police officer, and then I
8 subsequently wrote over it.

9 BY MR. HARRIS:

10 Q. I understand. Let me re-ask
11 my question.

12 So the part that we can
13 confirm you wrote was, "Stolen
14 prescription filled by our pharmacy,"
15 right?

16 A. That's mine.

17 Q. Okay. So someone from,
18 presumably, Giant Eagle provided law
19 enforcement, police, with additional
20 information about this stolen
21 prescription that was filled by your
22 pharmacy, right?

23 A. Correct.

24 Q. Okay. And we see under the

1 prescription pickup signature, it says,

2 "Date filled, September 3rd, 2016."

3 Do you see where it says

4 that?

5 A. Date filled, yes.

6 Q. Okay. And then two below

7 that, it says, "Acquiring store, 4002,"

8 which we've established is a pharmacy in

9 Trumbull County, Ohio, correct?

10 A. Correct.

11 Q. Okay. And you agreed

12 earlier that filling a stolen

13 prescription -- well, strike that.

14 Do you agree that a stolen

15 prescription is not a valid prescription,

16 right?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: A stolen

19 prescription, well, again -- a

20 stolen prescription is not a

21 valid -- you know, two ways to

22 look at it, but it's not a valid

23 prescription.

24 BY MR. HARRIS:

1 Q. Okay. What's the other way
2 to look at it? When is a stolen
3 prescription okay?

4 A. Well, I'm just saying if a
5 prescription was written, the -- if the
6 prescription was written legitimately for
7 somebody, okay -- and maybe I'm just
8 misinterpreting what you're saying. But
9 if it's written, and then that
10 prescription is taken by somebody else,
11 at that point, the script is actually
12 legitimate, but the person that took it
13 makes it that theft that you're talking
14 about.

15 Q. Okay. So attempting to get
16 prescription drugs including opioids with
17 a prescription, not prescribed to you,
18 that's fraudulent, correct?

19 A. Correct.

20 Q. Okay. And you agree that
21 filling fraudulent prescriptions can
22 contribute to diversion, correct?

23 A. It can, correct.

24 Q. Okay. Let's go ahead and

1 turn to the second page. And this is
2 where this document gets a little weird.
3 If you look at the top, this is another
4 DEA notification form that we discussed
5 already, but this one is dated June 12,
6 2015.

7 Do you see where it says
8 that?

9 A. I do.

10 Q. Okay. And certainly the
11 last one that we looked at was about a
12 year -- a year and three months,
13 approximately, in time. So do you agree
14 with me that these look like they're
15 discussing two separate instances?

16 And take your time to review
17 it. We're going to have some more
18 questions on it. But that's my take on
19 it, two instances from the same store.

20 I'll come back to that
21 question.

22 Let's look at this one a
23 little bit more together, and then we can
24 ask that one.

1 Let's go -- details and date
2 of suspected loss. It says 5/30, May
3 30th, presumably 2015.

4 Would you agree with that?

5 A. Yes.

6 Q. Okay. It says,
7 "Prescription for morphine IR
8 30-milligram was filled. Quantity 60 on
9 review of video. Two bottles were pulled
10 from safe. Only one returned. Possibly
11 thrown out."

12 Do you see where it says
13 that?

14 A. Yes.

15 Q. Okay. So from what we're
16 reading, it's unclear where that other
17 bottle went, correct?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: Correct.

20 BY MR. HARRIS:

21 Q. And you may know or you may
22 not. Do you know how many pills -- how
23 many tablets or pills, whatever you want
24 to refer to them as -- are in a bottle of

1 morphine 30 milligrams?

2 A. I'm not sure.

3 Q. Okay. But we saw in your
4 presentation earlier that a lot of these
5 prescription opioids have high street
6 values. Is that -- do you remember
7 looking at that?

8 A. Yes.

9 Q. Okay. So I mean, a bottle
10 of morphine, I'm not going to ask you
11 what you think the street value is.

12 Actually, yeah, I am. You
13 were an agent for Pennsylvania AG. Did
14 you ever become aware of a street value
15 of a bottle of morphine?

16 A. I didn't -- I didn't
17 investigate street drugs. Illicit.

18 Mine was Medicaid fraud.
19 That's what we did. We did pharmacies.
20 We did doctors. We didn't do, you know,
21 street --

22 Q. Sure.

23 A. -- purchases.

24 And you know what? I mean,

1 I'm -- only a portion of this was -- was
2 there -- do you have more documentation
3 than this?

4 Q. This is how this document
5 was produced to us, Mr. Shaheen. So I'm
6 trying to figure it out as much as you.

7 A. Well, no, I mean, it says
8 possibly thrown away. I'm just
9 thinking --

10 Q. Oh, well, here, let's go to
11 the next page. Maybe this is what you're
12 looking for. Page 3, original notes.

13 A. Okay.

14 Q. All right. Is this your
15 handwriting?

16 A. Yes.

17 Q. Okay. So 4002, that's that
18 pharmacy in Trumbull County. May 30th,
19 '15. Then we see, "MS IR 30 MG, 100
20 missing."

21 Do you see that?

22 A. Yes, I do.

23 Q. MS IR stands for that
24 morphine that we were just discussing?

1 A. Yes.

2 Q. Okay. Before we go on, when
3 destroying prescription drugs, including
4 opioids, isn't there a procedure that
5 needs to be followed to do that properly?

6 MR. KOBRIN: Object to form,
7 foundation.

8 THE WITNESS: Yes.

9 BY MR. HARRIS:

10 Q. Okay. Do you know what that
11 procedure is?

12 A. Well, I can only say in --
13 generally what we do is, if something is
14 going -- excuse me -- our out dates and
15 whatnot, we return those to a company,
16 and get credit for it. That's generally
17 what we do.

18 Q. Okay. So it's not a Giant
19 Eagle practice to take a bottle out and
20 throw it in a dumpster?

21 A. Right.

22 MR. KOBRIN: Object to form.

23 THE WITNESS: Sorry.

24 BY MR. HARRIS:

1 Q. Go ahead, Mr. Shaheen. You
2 can answer.

3 A. No, it's not our practice to
4 throw it in a dumpster.

5 Q. So we see here -- and the
6 date and time on the left, is this one of
7 your video file reviews?

8 A. Yes.

9 Q. Okay. So are those maybe
10 timestamps on the video?

11 A. Yes.

12 Q. So if we see the timestamp
13 12:30:53, it says, "Bottle thrown out,"
14 correct?

15 A. Correct.

16 Q. Okay. "3:41 garbage out to
17 compactor," is what I believe is what
18 that says, right?

19 A. Correct.

20 Q. So this is not -- this is
21 outside the ordinary Giant Eagle practice
22 in destroying prescription drugs,
23 correct?

24 MR. KOBRIN: Object to form.

1 THE WITNESS: Correct. But
2 you know, they didn't know that it
3 went in the garbage. So it's not
4 part of their practice.

5 BY MR. HARRIS:

6 Q. Oh, okay. Where does it say
7 they didn't know it went in the garbage?

8 A. My video review.

9 Q. Okay. Where does it say
10 that on this document, though?

11 A. It doesn't say it on the
12 document. I'm telling you based on my
13 video review, you know, if you read here,
14 the bottle was thrown out. And then what
15 I did was I followed the video all the
16 way to make sure that this bottle didn't
17 end up, you know -- by anybody taking it,
18 and you're able to follow the garbage.
19 And the garbage was then sent to the
20 compactor, and it was destroyed there.

21 Q. Outside the course of Giant
22 Eagle's normal practice for destruction
23 of opioids, right?

24 MR. KOBRIN: Object to form.

1 THE WITNESS: Yes. If we
2 were going to destroy it, this
3 product would have went back to
4 Anda or --

5 BY MR. HARRIS:

6 Q. McKesson?

7 A. Whatever company, yes.

8 Q. Okay. Let me ask you this.

9 Going back to this exhibit as a whole,
10 the first page dealt with a stolen
11 prescription. And then the second page
12 deals with an improperly disposed of
13 bottle of morphine, correct?

14 A. Correct.

15 Q. One from 2016, one from
16 2015, right?

17 A. Yes.

18 Q. So these are two separate
19 instances that happened to be combined in
20 one exhibit, right?

21 And listen, I'm not asking
22 this as a -- as a trick or anything.
23 It's just generally, from your review, do
24 these appear to be two separate

1 incidents?

2 A. These appear to be, based on
3 dates, two separate incidents.

4 Q. Okay. The incident dated --

5 MR. KOBRIN: In your
6 question, you said combined into
7 one exhibit. Did you mean that
8 you guys combined it or the
9 production? I just didn't -- I
10 don't want there to be a
11 misrepresentation on the record
12 that we somehow -- that we created
13 this exhibit for this purpose.

14 MR. HARRIS: I believe this
15 is how it was produced. I mean,
16 the Bates numbers are certainly
17 sequential. But -- and I'm not
18 necessarily --

19 MR. KOBRIN: I can --

20 MR. HARRIS: I'm not
21 necessarily, you know, raising an
22 issue of how it was produced. I'm
23 just trying to confirm for the
24 record that these are not intended

1 to be attached.

2 If we inadvertently
3 attached, then that's on me.

4 But --

5 MR. KOBRIN: I think that --
6 Josh, I think that is right. But
7 I think if you look at these
8 documents -- and again, I haven't
9 got all of our production
10 memorized, but if you look at
11 these documents via hardcopy
12 scans, they're not -- these are
13 not ESI production.

14 MR. HARRIS: Okay. Yeah,
15 that's fair. That's fair. I'm
16 not challenging the validity of
17 them. I'm just -- I'm just trying
18 to establish that they are two
19 separate and not linked in any
20 way, which I believe he's
21 testified to, so...

22 BY MR. HARRIS:

23 Q. All right, Mr. Shaheen. The
24 incident September 6, 2016 with filling

1 the stolen prescription, is that another
2 example of Giant Eagle going above and
3 beyond to prevent diversion?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: The minute
6 that this -- this was happened, we
7 were alerted to it. Contacted the
8 police and then provided the
9 necessary information to the
10 police so maybe they could conduct
11 their investigation with our video
12 and then information that they
13 gathered.

14 BY MR. HARRIS:

15 Q. Okay. Thank you.

16 And then the incident from
17 June 2015 where an employee improperly
18 disposed of a bottle of morphine. Is
19 that another example of Giant Eagle going
20 above and beyond to prevent diversion?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Once this
23 happened, I got called. I know
24 they probably started mini counts.

1 Then I come in to review video.

2 Once I was able to determine
3 that the product got thrown into
4 the garbage, you know, the
5 information was provided to the
6 Ohio Board and the DEA.

7 BY MR. HARRIS:

8 Q. Okay. All right. I'll tell
9 you what, Mr. Shaheen, I have one more
10 document that's fairly short. Let's go
11 over that. Then we've been going for
12 about another hour, so we'll take another
13 break. Does that sound good to you?

14 A. Thank you.

15 Q. Let's go ahead and to turn
16 to Tab 71, Tab 7-1 in your folder.

17 (Document marked for
18 identification as Exhibit
19 Shaheen-11.)

20 MR. HARRIS: This is going
21 to be Shaheen-11. And for the
22 record, this was produced
23 P-HBC-1342, Shaheen-11.

24 BY MR. HARRIS:

1 Q. Let me know when you get a
2 chance to flip through that one,
3 Mr. Shaheen, and we'll discuss it
4 together.

5 A. Okay. I'm there.

6 Q. Okay. Now, this is an
7 e-mail. I'll acknowledge that you are
8 not on the initial e-mail, but it looks
9 like you were later copied. Is that
10 fair? Or it was later forwarded to you,
11 I should say, rather.

12 A. Yes.

13 Q. Okay. It's forwarded to you
14 from Chris Miller on November 30th, 2015,
15 the same day the original e-mail was
16 sent, right?

17 A. Yes.

18 Q. Okay. And this is related
19 to Pharmacy 1435, as we can see from both
20 the from line and the start of the
21 initial e-mail.

22 Do you see where it says
23 that?

24 A. I do.

1 Q. Okay. And on Shaheen-2, our
2 pharmacy list, if you go to Page 2, it
3 indicates Pharmacy 1435, also in Trumbull
4 County, Ohio, correct?

5 A. Correct.

6 Q. All right, great. So let's
7 go ahead and read the e-mail. It says,
8 "Subject: Fraudulent prescriptions
9 received."

10 Do you see where it says
11 that?

12 A. I do.

13 Q. It says, "Hi, Chris. This
14 is Mike from Number 1435. I received a
15 call today from CNP Laura DeJulia who
16 works for Meridian Community Care."

17 Do you see where it says
18 that?

19 A. I do.

20 Q. Okay. It says they fired a
21 nurse today who has been writing
22 fraudulent prescriptions under three
23 different names, right?

24 A. Yes.

1 Q. Mike from Pharmacy 1435
2 says, "Most prescriptions were filled at
3 Walgreens on Meridian Road; however, two
4 prescriptions were filled at our store
5 and several at Giant Eagle on Belmont
6 Avenue."

7 Do you see where it says
8 that?

9 A. I do.

10 Q. It says "We," all capital,
11 right? "We filled a fraudulent Percocet
12 prescription in June of 2014 and a
13 fraudulent Norco prescription in April
14 of 2015."

15 Do you see that?

16 A. I do.

17 Q. Okay. And you agree filling
18 fraudulent prescriptions can contribute
19 to the diversion of opioids, right?

20 MR. KOBRIN: Object to form.
21 Complete misrepresentation of the
22 document.

23 THE WITNESS: Yes, and it
24 looks like -- go ahead.

1 BY MR. HARRIS:

2 Q. Is this another example of
3 Giant Eagle going above and beyond to
4 prevent the diversion of opioids?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: In response to
7 this, again, whether it was
8 myself, Chris Miller, or anyone
9 else, would have contacted Mike
10 and spoke with Mike. Obviously
11 provide and work with law
12 enforcement to help out with this
13 particular case, prosecute this
14 individual, and maybe even the
15 Ohio Board. Mm-hmm.

16 BY MR. HARRIS:

17 Q. Okay. Well, but we already
18 have two prescriptions that were filled
19 at two separate Giant Eagle stores
20 indicated by this e-mail, right? Two
21 fraudulent prescriptions I should say.

22 A. From -- from what is -- from
23 what is reported by the pharmacist.
24 Mm-hmm, yes.

1 Q. Okay. So filling fraudulent
2 prescriptions, is that an example of
3 Giant Eagle going above and beyond to
4 prevent the diversion of opioids?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: We exercise
7 our due diligence. We -- we
8 exercise all precautions to try to
9 prevent these kind of things from
10 happening. Okay.

11 And then plus, anything that
12 we have on top of it, whether it's
13 electronic, or paper, to utilize
14 to help prevent these things from
15 happening.

16 MR. HARRIS: All right. I
17 told you that I was going to go
18 through that one document real
19 quick because it was short. So
20 why don't we go ahead and take a
21 ten-minute break.

22 Good for everyone?

23 MR. KOBRIN: Works for me.

24 Thank you, Josh.

1 MR. HARRIS: All right.

2 We'll go ahead and go off the
3 record if that's all right with
4 everybody.

5 THE VIDEOGRAPHER: Going
6 off the record. The time is 2:44.

7 (Short break.)

8 THE VIDEOGRAPHER: We are
9 going back on record. The time is
10 3:05.

11 BY MR. HARRIS:

12 Q. All right, Mr. Shaheen.
13 We're back from our break. Do you
14 understand that you're still under oath?

15 A. I do.

16 Q. Okay. Let us -- let's turn
17 together to Tab 29, 2-9, of your folder.

18 (Document marked for
19 identification as Exhibit
20 Shaheen-12.)

21 MR. HARRIS: This is going
22 to be -- let me double-check. I
23 think I have a typo on my -- well,
24 yeah, Joe will pull it up.

1 No, I don't think that's it.

2 Oh, it's Tab 69. I'm sorry. This
3 is the next exhibit. So it's Tab
4 6-9. I apologize, Mr. Shaheen. I
5 went too far on the page. We'll
6 look that one in a minute.

7 Okay. Here we go. So let's
8 make this clear for the record.
9 We're looking at what's been
10 produced as P-HBC-1340.

11 This is Tab 69 in the folder
12 produced to Mr. Shaheen.

13 This is going to be marked
14 as Shaheen-11 -- or excuse me, 12
15 for the depo transcript.

16 BY MR. HARRIS:

17 Q. All right, Mr. Shaheen.
18 Just kind of briefly orienting ourselves.
19 We have a cover e-mail. And then
20 attached to it we have another giant
21 e-mail DEA notification; is that right?

22 A. Yes.

23 Q. Okay. Let's go ahead. This
24 is a short e-mail. Let's just go ahead

1 and peak at it real fast. This is an
2 e-mail from Angela Garofalo on June 13th,
3 2017, to a couple folks, and you're on
4 the "cc" line.

5 Do you see that?

6 A. I do.

7 Q. It says "Subject: Loss."

8 And then there's an attachment, which
9 we'll get to next, right?

10 A. Yes.

11 Q. And it says, "Rolling,"
12 which I believe was intending to be
13 Rollin. "Rolling, store was investigated
14 and cannot determine what happened. Can
15 you send me a report showing all
16 purchases and dispensing since May 1st?
17 We did the annual control inventory then
18 and everything looked good."

19 Is that right?

20 A. Yes.

21 Q. Okay. And I believe you
22 testified earlier that when a store did
23 suffer a loss, what they would do is look
24 at the data to determine if they could

1 identify where that loss occurred

2 potentially?

3 A. Yes.

4 Q. Okay. But here,

5 Mr. Garofalo is indicating, "Store has

6 investigated and cannot determine what

7 happened."

8 Do you see where it says

9 that?

10 A. Yes.

11 Q. Okay. So let's go ahead and

12 go to the attachment to get a little more

13 information. This is also dated -- gosh,

14 I think that -- I believe that's

15 6/2/2017. It's a little chicken scratch.

16 Okay. So we see, "Details

17 and date of suspected loss." It says,

18 "120 hydrocodone, May 30, 2017." And

19 underneath that, "40 amphetamine, May 30,

20 2017."

21 Do you see where it says

22 that?

23 A. Yes.

24 Q. Okay. And if we look at our

1 pharmacy list from Exhibit Shaheen-2, we
2 see the Giant Eagle pharmacy number is
3 6381, which is the Willoughby store in
4 Lake County, Ohio, correct?

5 A. Yes.

6 Q. And you testified earlier
7 that you had been to Lake County to
8 conduct Giant Eagle business?

9 A. Correct.

10 Q. Okay. Do you have any
11 independent recollection of being at this
12 store, the Willoughby store, or pharmacy,
13 I should say, in Lake County?

14 A. I could have been at the
15 store. I don't recall.

16 Q. Okay. So let me ask you
17 this. The data that's pulled by
18 pharmacists when inspecting loss is also
19 entered by Giant Eagle pharmacists; is
20 that correct?

21 A. Please repeat.

22 Q. Sure. Let me ask it a
23 different way. That wasn't a very good
24 question.

1 A. Yeah.

2 Q. We talked about the
3 perpetual logs earlier. Do you remember
4 looking at those?

5 A. Mm-hmm. Yes.

6 Q. And you also indicated that
7 there's also electronic forms of data
8 reporting, if you will?

9 A. Yes.

10 Q. Is it the Giant Eagle
11 pharmacists that input that information
12 to either the log or the electronic
13 database?

14 A. Yes. Giant Eagle
15 pharmacists and/or IT people on the back
16 side.

17 Q. Okay. Fair enough. So
18 you're relying on those pharmacists -- or
19 in scenarios, the IT people -- you rely
20 on those pharmacists to put accurate
21 information in those logs, correct?

22 A. Yes.

23 Q. Because you need accurate
24 information to determine what happened

1 with a potential loss, right?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: Yes. That

4 would be -- that would be used in

5 an attempt to determine a loss.

6 BY MR. HARRIS:

7 Q. Okay. And as we discussed,
8 a loss of prescription drugs, including
9 opioids, is potentially increasing the
10 risk of diversion, correct?

11 A. Potentially.

12 Q. Okay. Now, this loss of
13 opioids in June 2017 at a Lake County
14 pharmacy, is this another example of
15 Giant Eagle employees going above and
16 beyond to prevent the diversion of
17 opioids?

18 MR. KOBRIN: Object to form.

19 Misrepresents this document.

20 THE WITNESS: Utilizing the
21 data and what they have, not only
22 at the store level, but then
23 through corporate, they've
24 identified a loss here.

1 Subsequent to that loss,
2 they filled out a DEA 106. And
3 again, I don't remember if I
4 looked at it or Andrew looked at
5 it to review video. Those are
6 some of the things that we do to
7 become proactive.

8 Probably -- I don't have --
9 I don't see anything else. But I
10 know as a form, we always contact
11 the board and then we start a
12 covert count.

13 BY MR. HARRIS:

14 Q. Okay. Thank you. I want to
15 address something that you mentioned.
16 You said those are some things that we do
17 to become proactive. But let's take a
18 step back.

19 You weren't aware of this
20 loss until it was reported to you by the
21 pharmacist, Angela Garofalo, correct?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: Yes, correct.

24 BY MR. HARRIS:

1 Q. Okay. So whenever you found
2 out, you were actually reactive to the
3 situation, not proactive, correct?

4 A. Reactive to that, but then
5 moving proactive by starting our mini
6 counts, reviewing video and whatnot, to
7 try to determine that loss.

8 Q. Okay. Fair enough.

9 But in terms of the loss
10 itself, your investigation was reactive
11 to the loss as opposed to being proactive
12 to the loss, right?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: We

15 responded --

16 MR. KOBRIN: The question is
17 whether he wasn't proactive to
18 something that hadn't happened
19 yet?

20 BY MR. HARRIS:

21 Q. Mr. Shaheen, do you
22 understand my question?

23 A. Please repeat.

24 Q. Okay. Sure. So you were

1 not proactive to this loss of 120
2 hydrocodone and 40 amphetamine, correct?

3 A. I didn't know of this loss
4 until Angela reported, and then we became
5 reactive to it. And why I'm saying
6 proactive on our counts, the board -- I
7 don't wait for the board to tell us to
8 please start the mini counts. We start
9 that automatically. So that's what I'm
10 saying about being proactive.

11 Q. Okay. And I understand, and
12 I appreciate that. But I'm asking in
13 regard to the actual loss itself. That's
14 a reactive investigation, not a proactive
15 investigation, right?

16 A. I didn't know about this
17 loss until Angela contacted me.

18 Q. Okay. Thank you. Would you
19 agree that most of your investigations,
20 you only become aware of when a
21 pharmacist or a team leader or another
22 Giant Eagle employee notify you?

23 A. It could be, yes. And
24 remember I said before, background

1 workers, IT people. Okay. We put in --

2 Q. Sure. Those would be Giant
3 Eagle employees, right?

4 A. Yes. Mm-hmm.

5 Q. Okay. And so a majority, if
6 not all, of your investigations into the
7 potential issues that could lead to
8 diversion are reactive once you're
9 notified by Giant Eagle employees,
10 correct?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: A lot of
13 times, what we have done is we
14 utilize some of the protocols that
15 are already built in, and anything
16 that we add.

17 So if a product does go
18 missing, okay, we have the ability
19 to react to, okay, you know,
20 this -- this particular NDC is
21 missing.

22 And, you know, in most cases
23 I would be notified by a
24 pharmacist. But in some cases, if

1 it is from, you know, a background
2 worker, then we can start
3 utilizing our data that we have to
4 begin our research and start our
5 camera review and video and
6 whatnot.

7 BY MR. HARRIS:

8 Q. Okay. Sorry.

9 A. That's it. I'm sorry.

10 Q. Okay. So you mentioned that
11 you utilize protocols that are built in.
12 Is -- perpetual logs are one of those
13 protocols, correct?

14 A. One of them.

15 Q. Okay. But again, that
16 relies on accurate information being put
17 into that log, right?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: Correct.

20 BY MR. HARRIS:

21 Q. Okay. Same with the
22 electronic data collection, that requires
23 accurate information to be stored in it,
24 correct?

1 A. Correct.

2 Q. Okay. To be proactive it
3 requires that your pharmacist conduct due
4 diligence before filling prescriptions,
5 correct?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: Please repeat
8 that question.

9 BY MR. HARRIS:

10 Q. Absolutely. To be
11 proactive, it requires that your
12 pharmacist conduct due diligence before
13 filling prescriptions, correct?

14 MR. KOBRIN: Object to form.

15 I just don't want to have a
16 confusion here. You shifted from
17 loss to dispense.

18 MR. HARRIS: Right. I'm
19 covering a couple different
20 topics. I'm more so in the big
21 bucket of proactive versus
22 reactive.

23 So let me ask that again,
24 Mr. Shaheen.

1 BY MR. HARRIS:

2 Q. One way to be proactive --

3 I'll phrase it that way. One way to be

4 proactive would be to require your

5 pharmacist to conduct due diligence

6 before filling prescriptions, correct?

7 A. And I believe, yes, they do.

8 Q. Okay. So why did we see

9 examples of fraudulent scripts being

10 filled earlier today?

11 MR. KOBRIN: Object to form.

12 Argumentative.

13 Argumentative.

14 Go ahead, Rick.

15 THE WITNESS: Okay. I

16 was -- I didn't know if you had

17 something else.

18 MR. KOBRIN: I was making

19 sure it was heard. I'm sorry.

20 THE WITNESS: You know,

21 Mr. Harris, the pharmacists are

22 conducting due diligence.

23 Sometimes a prescription may -- a

24 fraudulent prescription may get

1 filled, and in some of the cases
2 that we talked about, it happened.

3 But at no point in time are
4 any of our pharmacists filling a
5 prescription knowingly or
6 willingly to, you know, satisfy
7 somebody's, you know, desire to
8 commit a criminal act and obtain
9 those -- those products.

10 It -- they don't operate
11 that way.

12 So, yes, due diligence is a
13 requirement for every pharmacist
14 when they -- when they exercise
15 utilizing their due diligence and
16 what they've learned in their
17 training.

18 BY MR. HARRIS:

19 Q. Okay. Is it your testimony
20 that at no point in time are any of your
21 pharmacists having a desire to commit a
22 criminal act to obtain these products,
23 referencing opioids?

24 MR. KOBRIN: Object to form.

1 THE WITNESS: Unless
2 somebody has done -- unless one of
3 our pharmacists or team members
4 has absolutely stolen that
5 product, okay, I don't -- I can't
6 tell you if and when that's going
7 to happen again, okay.

8 So if it happens, we're
9 going to react to it.

10 If it happens, we're going
11 to contact the board. We're going
12 to, you know, follow through on
13 our policies and procedures.

14 You know, it has happened,
15 and that's what we did in the
16 past, and we'll continue to do
17 that in the future.

18 BY MR. HARRIS:

19 Q. All right. Let's move on to
20 the next exhibit, Mr. Shaheen. Now we go
21 to Tab 29. This is the one that I messed
22 up earlier, Tab 29.

23 MR. HARRIS: This is
24 P-HBC-1300. And this will be

1 Shaheen-13 for the record.

2 (Document marked for
3 identification as Exhibit
4 Shaheen-13.)

5 BY MR. HARRIS:

6 Q. This is another short
7 e-mail. So let me know when you get to
8 it, and we'll walk through it together.

9 A. I'm there.

10 Q. Okay. We see this is an
11 e-mail from Todd Roahrig. I hope I'm not
12 messing his name up too badly.

13 A. You're right.

14 Q. Okay. Sent December 7, 2017
15 to you Andrew Gaus, and himself
16 apparently. "Subject: 4056 Jamestown
17 Youngstown."

18 Do you see that?

19 A. Yes.

20 Q. Okay. If we look at our
21 chart from Shaheen-2, Pharmacy 4056, we
22 see that is actually the Jamestown
23 pharmacy in Trumbull County Ohio. It's
24 Page 4, almost dead in the middle.

1 A. Yes.

2 Q. All right. So we've got
3 another Trumbull County pharmacy.

4 Let's go ahead and read
5 this. A Norco 10 was filed Tuesday
6 evening by leader Sarah, and yesterday
7 Brent RPh believed they were about 30" --
8 or "they were short 30, reviewed video
9 and believes we dispensed 120 instead of
10 90.

11 Did I read that right?

12 A. Yes, except it was filled.
13 You said filed.

14 Q. Okay. Well, let's strike
15 that. Let me read it again.

16 And before we move on to
17 that, actually, let me ask this question
18 first. Where it says Brent RPh, is that
19 registered pharmacist?

20 A. Correct.

21 Q. Okay. So if I read it like
22 that, would you agree that's an accurate
23 reading?

24 A. Yes.

1 Q. So this e-mail reads, "A
2 Norco 10 was filled Tuesday evening by
3 leader Sarah, and yesterday Brent,
4 registered pharmacist, believed they were
5 short 30, reviewed video and believes we
6 dispensed 120 instead of 90."

7 Do you see that it says
8 that?

9 A. Yes.

10 Q. "But comments from leader
11 Sarah concerning proper follow-up and
12 integrity may be due to her error, are
13 concerning..."

14 Right?

15 A. Yes.

16 Q. Okay. There is more
17 documents that go with this. But I
18 wanted to go ahead and start with that
19 one. So we're -- well, let me -- let me
20 ask you this.

21 Is it -- is it something
22 that would flag Giant Eagle to
23 investigate if 120 pills were dispensed
24 instead of what appears to be the

1 appropriate 90?

2 A. Yes.

3 Q. Is -- is overfilling
4 prescriptions a potential risk of
5 diversion?

6 A. It's a potential risk.

7 Q. Okay. We're going to go
8 ahead. We're done with that document if
9 you want to put it to the side. We're
10 going to turn next to Tab 37.

11 MR. HARRIS: This is
12 P-HBC-1308.

13 (Document marked for
14 identification as Exhibit
15 Shaheen-14.)

16 MR. HARRIS: And this is
17 Shaheen-14 for the record.

18 THE WITNESS: Okay.

19 MR. KOBRIN: The tab again
20 for 14, Josh?

21 MR. HARRIS: Tab 37, 3-7.

22 MR. KOBRIN: Thank you.

23 MR. HARRIS: And it's
24 Bates-stamped P-HBC-1308,

1 Shaheen-14.

2 BY MR. HARRIS:

3 Q. All right. Mr. Shaheen,
4 we'll go through this a little bit
5 together. I want to cover this first
6 e-mail. As you'll see, the third and
7 fourth pages of this exhibit appear to be
8 duplicative. They have different stamp
9 numbers, but it's just a copy of the same
10 e-mail.

11 So let's -- let's go through
12 the first copy first, and then we'll look
13 at the documents after the duplicate.
14 Does that make sense?

15 A. Yes.

16 Q. All right. So at the top of
17 this e-mail, we have from Lori Phillips
18 to you, Andrew, the subject, "Brenton
19 Cornwell Statement," right?

20 A. Yes.

21 Q. Okay. It looks like Lori
22 forwarded you an e-mail from Brenton from
23 that same day, December 8th at 4:08 p.m.
24 And it says, "Question about statement,"

1 correct?

2 A. Correct.

3 Q. All right. Let's read this
4 e-mail together.

5 It says, "On December 6th at
6 approximately 2:03 p.m., I was checking a
7 prescription for generic Norco 10/325."

8 Do you see where it says
9 that?

10 A. Yes.

11 Q. "Upon performing a back
12 count" --

13 MR. HARRIS: Let's highlight
14 this part, please.

15 BY MR. HARRIS:

16 Q. "Upon performing a back
17 count, I discovered a shortage of 30
18 tablets. I immediately alerted Sarah,
19 the manager."

20 Did I read that properly?

21 A. Yes.

22 Q. Okay. It goes on to say
23 that they did research, and then the
24 following sentence says, "I noticed on

1 the back count listed on the open bottle
2 we were using that the count didn't make
3 sense."

4 Right?

5 A. Yes.

6 Q. And from that presentation
7 you gave, Giant Eagle pharmacists are
8 required to do back counts, correct?

9 A. Correct.

10 Q. Okay. And you actually had
11 concerns that they weren't being done
12 consistently, and then a regulation -- or
13 excuse me, a regulatory agency may take
14 problem with that.

15 Do you remember saying that
16 in an e-mail?

17 A. Yes.

18 Q. Okay. Let's keep going.

19 "The top number was 81, which was a back
20 count I performed on Monday and was
21 verified in the narcotic log. The next
22 number was 61."

23 Do you see that?

24 A. Yes.

1 Q. And then he explains, "That
2 number would indicate a quantity of 120
3 being dispensed, not 90, on the previous
4 that was counted by Sarah, the previous
5 day," right?

6 A. Correct.

7 Q. Okay. "I asked Sarah" --
8 which -- and doesn't say it here, but
9 Sarah is the manager for this pharmacy?
10 At least that's what's indicated?

11 A. I believe she was.

12 Q. Okay. "I asked Sarah if she
13 wanted to review tape to confirm, contact
14 the patient, or contact Todd, and she
15 said no to each suggestion."

16 Do you see where it says
17 that?

18 A. Yes.

19 Q. "She did update the narcotic
20 log several minutes later to indicate the
21 suspected loss without researching."

22 Do you see where it says
23 that?

24 A. Yes.

1 Q. Now, I'll just ask the
2 question. Is this an example of Giant
3 Eagle employees and pharmacists going
4 above and beyond to prevent diversion of
5 prescription drugs, including opioids?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: I can't speak
8 for Sarah. I see that Brendon --
9 Brenton actually responded.

10 So, you know, the procedure
11 in place was correct.

12 Why she did what she did, I
13 can't explain.

14 BY MR. HARRIS:

15 Q. Okay. Would you agree that
16 her actions increased the risk of
17 diversion of opioids?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: If in fact,
20 the 120 and not 90 was provided to
21 a patient, then yes, that's
22 possible.

23 BY MR. HARRIS:

24 Q. Thank you.

1 Okay. Let's go ahead and
2 look at -- let's look at Tab 14 in your
3 binder, Tab 14.

4 (Document marked for
5 identification as Exhibit
6 Shaheen-15.)

7 MR. HARRIS: This is going
8 to be Bates stamp P-HBC-1282.

9 BY MR. HARRIS:

10 Q. This is an e-mail from you.
11 We're going to cover most of this. But
12 certainly at any point if you need to
13 stop, please let me know.

14 A. Okay.

15 Q. All right. So for the
16 record, we're going to label this
17 Shaheen-15. Let's go ahead and look at
18 Shaheen-15 together.

19 Up at the top, this is an
20 e-mail from you on June 6, 2018 to Mike
21 Leighlitner and Andrew Gaus, right?

22 A. Correct.

23 Q. This was a forward of LP --
24 does that mean loss prevention?

1 A. Correct.

2 Q. All right. A forward of
3 loss prevention pharmacy wins FY, fiscal
4 year, '18, right?

5 A. Correct.

6 Q. You write, "Sorry, Mike.
7 This was sent to you sooner. Please feel
8 free to take what you think is
9 significant."

10 I want to go through. This
11 is -- did you draft the original e-mail,
12 the LP pharmacy wins e-mail? Is that
13 something you typically do?

14 A. I believe -- not typically.
15 But I think what happened is he may have
16 needed some information for some of the
17 executives. So maybe I threw something
18 like this together.

19 Q. Okay. That makes sense.

20 Okay. Well, let's look at
21 what you put together. Let's start with
22 the second paragraph.

23 Starting, "We worked in
24 conjunction with the pharmacy department

1 to implement at our pharmacies the
2 electronic perpetual C-II log that helps
3 identify when those drugs are missing or
4 short," right?

5 A. Correct.

6 Q. And again, that electronic
7 perpetual log is only as good as the
8 information put into it?

9 A. Correct.

10 MR. KOBRIN: Object to form.

11 BY MR. HARRIS:

12 Q. And information should be
13 investigated before loading it into a
14 log?

15 MR. KOBRIN: Object to form
16 vague.

17 MR. HARRIS: I can rephrase
18 it.

19 BY MR. HARRIS:

20 Q. Mr. Shaheen, would you agree
21 that you want accurate information to go
22 into these logs?

23 A. Yes.

24 Q. And sometimes that requires

1 investigating the scenario to get that
2 information?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: Well, in -- if
5 something did come up missing in
6 the course of an investigation,
7 that would be looked at, plus then
8 anything following that to when it
9 is alleged that there was a
10 problem.

11 BY MR. HARRIS:

12 Q. Okay. Let's go two
13 paragraphs down. "The pharmacy
14 department helped us paying" -- excuse
15 me. "The pharmacy department helped us
16 by paying for the upgrade and camera
17 equipment at eight of our pharmacies. It
18 has already paid off in identifying theft
19 or loss of cash and medication at most of
20 those stores."

21 Right?

22 A. Correct.

23 Q. Okay. Let's go down one
24 more.

1 It says, "Our newest case
2 involves two nurses that falsified over
3 200 prescriptions causing thousands of
4 hydrocodone, a C-II, to be dispensed
5 illegally."

6 Do you see that?

7 A. I do.

8 Q. And you agreed earlier that
9 illegally dispensing opioids is --
10 contributes to diversion, right?

11 A. I did.

12 Q. Okay. Let's go down to the
13 section that says, "Loss prevention
14 pharmacy wins FY '18." I want to make
15 sure we are on the same page.

16 Do you understand fiscal
17 year '18 to be July 2018 to June 30th,
18 2019?

19 A. Yes.

20 Q. Okay. So that's the time
21 frame that we're looking at.

22 So in that year period you
23 list that there were 19 internal thefts,
24 right?

1 A. Yes.

2 Q. Internal refers to Giant
3 Eagle employees?

4 A. Yes.

5 Q. Okay. And you agreed
6 earlier that theft of prescription drugs
7 including opioids can lead to diversion,
8 right?

9 MR. KOBRIN: Object to form.
10 Misrepresents the evidence.

11 THE WITNESS: Yes. But 19
12 internal thefts that year -- on
13 any year, you could say -- it's
14 not just drugs. It could be cash.
15 It could be product from the
16 supermarket. It could be theft of
17 time.

18 BY MR. HARRIS:

19 Q. Okay. Well, I hear you.
20 Let's go ahead and look at the other
21 categories and see if we may be talking
22 cash, or if we may be talking drugs; is
23 that okay?

24 A. All right.

1 Q. All right. The next one
2 says, "80 fake prescription cases."

3 Do you see where it says
4 that?

5 A. Yes.

6 Q. That's not talking about
7 cash, right?

8 A. No.

9 Q. That's talking about
10 prescription drugs, right?

11 A. Yes.

12 Q. Which can include opioids?

13 A. It could.

14 Q. Okay. And again, filling
15 fake or fraudulent prescriptions can lead
16 to diversion, correct?

17 MR. KOBRIN: Object to form.

18 Misrepresents the document.

19 THE WITNESS: It could.

20 BY MR. HARRIS:

21 Q. Okay. Let's go down two
22 bullet points. "327 investigations this
23 year," right?

24 A. Correct.

1 Q. Now, would you have
2 conducted all of these investigations, in
3 addition to Andrew Gaus, or at this point
4 in 2018 were there more people on your
5 team?

6 A. No. This would have just
7 been Andrew and myself.

8 Q. Okay. Let's go to the last
9 bullet point right here. It says, "Loss
10 prevention pharmacy wins, fiscal year
11 '18.

12 "Keeping drugs out of our
13 communities and out of the hands of our
14 children."

15 Mr. Shaheen, would you agree
16 that is a good thing?

17 A. That's a great thing.

18 Q. That is a -- I absolutely
19 agree.

20 This kind of relates back to
21 the article that you gave comment on in
22 2012 when you were an agent for the
23 Pennsylvania Attorney General.

24 Do you remember that?

1 A. I do.

2 Q. Okay. So even about six
3 years, roughly 6 to 7 years later,
4 keeping drugs out of the community and
5 out of the hands of our children should
6 be a priority for yourself, right?

7 A. Yes.

8 Q. And it should be a priority
9 for Giant Eagle as well, correct?

10 A. Yes, it is.

11 Q. Okay. So despite all of the
12 evidence that we've looked at that may
13 lead to diversion, it is a priority, is
14 your testimony?

15 MR. KOBRIN: Object to form.
16 Argumentative.

17 THE WITNESS: You know, we
18 didn't talk about the 80 fake
19 prescriptions and the results of
20 what we did when we worked with
21 the DEA, AG, FBI and the Ohio
22 Board.

23 But maybe I'll address that
24 later.

1 BY MR. HARRIS:

2 Q. Okay. All right. Let's go
3 to the second page. Well, hold on.

4 Sorry, before we go there, it says, "Top
5 cases, fiscal year '18."

6 Let's go ahead to the second
7 page. It says, "Store Number 6377." If
8 you look at Shaheen-2, Page 5, we can see
9 that Store 6377 is, in fact, the
10 Painesville pharmacy in Lake County.

11 Do you agree?

12 A. Yes.

13 Q. Okay. "Painesville, we
14 caught and interviewed a pharmacy
15 technician that admitted to stealing over
16 \$6,000 worth of controlled substances."

17 That's what it says?

18 A. That's what it says.

19 Q. Let's go to the next one.
20 Store 12 -- or excuse me, store 2416. If
21 you go to our Page 3 of Shaheen-2, we
22 identified Store 2416 as the McDonald
23 pharmacy in Washington County,
24 Pennsylvania, right?

1 A. Correct.

2 Q. Okay. It says, "2416,
3 McDonald, pharmacy technician stealing
4 money. We got the tech to admit to
5 stealing \$500."

6 Do you see that?

7 A. Yes.

8 Q. Okay. Store 4093, Yorktown
9 Centre. If we go to Shaheen-2, we can
10 identify Yorktown being in Erie County,
11 Pennsylvania.

12 Do you agree? That's on
13 Page 4, a little under halfway.

14 A. Yes.

15 Q. Okay. "Store 4093, Erie
16 County, Pennsylvania. Store 4093,
17 Yorktown Centre, two technicians abusing
18 the extra miles coupon, new extra mile
19 program implemented."

20 You see that, right?

21 A. Yes.

22 Q. All right. Store 4051,
23 Howland. If we go back to Page 4 of
24 Shaheen-2, we see Howland is another

1 pharmacy in Trumbull County?

2 A. 4051, yes.

3 Q. Okay. "Three pharmacy
4 technicians stealing."

5 MR. HARRIS: And let's go in
6 and highlight these next ones in
7 red, please.

8 BY MR. HARRIS:

9 Q. "One stole product. One
10 stole money. Another was selling meth
11 out of our store."

12 Is that what that says,
13 Mr. Shaheen?

14 A. Yes.

15 Q. Store Number 47. If we go
16 to Page 1 of Exhibit Shaheen-2, it's
17 Robinson County -- or excuse me, Robinson
18 pharmacy, Allegheny County, Pennsylvania.

19 Do you agree?

20 A. I agree.

21 Q. "Store 47, Robinson. On
22 pharmacy" -- excuse me -- "On pharmacy
23 tech caught stealing controlled
24 substances and another pharmacy tech

1 abusing GEAC."

2 Is that what that says,

3 Mr. Shaheen?

4 A. Yes.

5 Q. Are these examples of Giant
6 Eagle employees going above and beyond to
7 prevent diversion of opioids,

8 Mr. Shaheen?

9 MR. KOBRIN: Object to form.

10 Misrepresents the document.

11 Misrepresents his testimony.

12 THE WITNESS: If you're
13 talking -- you know, like 2416
14 stealing money, well, each one of
15 these cases they were terminated
16 and/or either prosecuted in each
17 occasion.

18 Store 47, Robinson, the
19 pharmacy tech got caught stealing,
20 was his first day as an employee.
21 And so he was terminated while he
22 was on the bench, and immediately
23 when he made his count on that
24 drug when it went to the

1 pharmacist, he identified it right
2 away because of the back count.

3 Howland, you know, we have
4 one -- one stole product. Like I
5 said, sometimes that happens, that
6 they'll steal product from the
7 store, whether it was food or
8 whatever.

9 One stole money. Again,
10 that's over a span, maybe in that
11 year's time period.

12 An individual was selling
13 meth. No knowledge of that
14 individual doing it. And when we
15 caught wind of it, then the task
16 force ended up arresting that
17 individual.

18 You know, because of the
19 Painesville, we caught and
20 interviewed a pharmacy technician
21 that admitted to stealing over
22 \$6,000 worth of controlled
23 substance. Yes, she was -- I
24 worked with the Board on that. I

1 believe that was my case, not
2 Andrew's. But she was
3 subsequently arrested by the Ohio
4 Board.

5 So, you know, just to give
6 you a background on each one of
7 those.

8 BY MR. HARRIS:

9 Q. Sir, are you testifying that
10 each one of those is an example of Giant
11 Eagle employees going above and beyond?

12 A. No. I'm saying what I'm
13 referring --

14 MR. KOBRIN: Object to form.

15 Object to form. Give me a chance,
16 Rick.

17 BY MR. HARRIS:

18 Q. You can go ahead,
19 Mr. Shaheen.

20 A. What I'm referring to is --
21 is when we do identify it, that we do
22 take action immediately. We don't rest
23 on anything. These things are moved
24 either to myself or to law enforcement or

1 to Andrew.

2 Q. Okay. But these were all
3 reactive investigations, right?

4 MR. KOBRIN: Object to form.
5 Misrepresents the testimony and
6 the document.

7 THE WITNESS: We were -- we
8 were notified by either the
9 pharmacy manager or one of the
10 pharmacists in some of these.

11 And in some cases, we had to
12 put up hidden cameras. So, again,
13 that's why I say at times we are
14 proactive in how we react to
15 things.

16 BY MR. HARRIS:

17 Q. All right. Let's go ahead
18 and go to the next one, Mr. Shaheen.
19 This is Tab 17, 1-7.

20 (Document marked for
21 identification as Exhibit
22 Sheehan-16.)

23 MR. HARRIS: This is
24 P-HBC-1285. This will be Shaheen

1 Exhibit 16 for the record.

2 BY MR. HARRIS:

3 Q. Let me know when you have
4 that open.

5 A. I -- you said 17. I have
6 it.

7 Q. What we may want to do --
8 well, you got the folder. Let's start
9 with Shaheen-16. So this is Document
10 Shaheen 16. This is an e-mail from you,
11 Monday August 13th, 2018, correct?

12 A. Yes.

13 Q. It looks like you attached a
14 picture to it, right?

15 A. Yes.

16 Q. Okay. Let's read the text
17 of your e-mail, if we can highlight this.

18 "Please see the attached
19 forged prescription. This ring is having
20 success passing this forgery."

21 Is that what that says?

22 A. That's what it says.

23 Q. It then continues on to say,
24 "As always please use due diligence and

1 look for red flags." Right?

2 A. Correct.

3 Q. And it indicates what's a
4 potential red flag below. Would you
5 agree?

6 A. Yes.

7 Q. Okay. So a script being
8 passed near closing is a potential red
9 flag, right?

10 MR. KOBRIN: Object to form.
11 Asked and answered.

12 THE WITNESS: Well, the
13 information that I would have
14 obtained from law enforcement or
15 if another pharmacist contacted
16 us, law enforcement would have
17 said that these scripts were being
18 passed at late night.

19 So to help evaluate for the
20 pharmacist, then once this was
21 uncovered by law enforcement, we
22 shared that information.

23 BY MR. HARRIS:

24 Q. Okay. So from what this

1 document says though, "This ring is
2 having success passing this forgery."

3 That's what that document
4 says right there, right?

5 A. Yes, they have success.

6 Q. Okay. And then "this
7 forgery," is that referring to the
8 picture attached behind this e-mail?

9 A. Yes. I don't know. I mean,
10 there's nothing that indicates -- I sent
11 out a BOLO to look, but nothing indicates
12 that we did fill that prescription.

13 Q. Okay. I'm glad you
14 mentioned that. Let's go ahead and turn
15 to Tab 27, please. And we may refer back
16 to Tab 17. But let's go to 27 for now.

17 A. Okay.

18 (Document marked for
19 identification as Exhibit
20 Shaheen-17.)

21 MR. HARRIS: This is going
22 to be Shaheen-17 for the record.

23 This is -- or excuse me,

24 P-HBC-1298.

1 BY MR. HARRIS:

2 Q. This is a pharmacy hot
3 sheet. Do you see where it says that?

4 A. I do.

5 Q. This is for Store 4002.

6 Do you see where it says
7 that at the top right?

8 A. I do.

9 Q. And if we look at Shaheen-2,
10 this is the Churchhill Commons store in
11 Trumbull County; is that right?

12 A. Correct.

13 Q. Okay. And was this filled
14 out by you?

15 A. Yes, it was.

16 Q. Okay. And we see on here it
17 says, "Investigator," and Rick Shaheen is
18 checked off, correct?

19 A. Yes.

20 Q. All right. The type of
21 incident checked off, fraudulent script,
22 right?

23 A. Yes.

24 Q. It says, "BOLO sent out on

1 8/13/18." Is that what you were just
2 referring to? You sent out a BOLO, you
3 mentioned?

4 A. Hold on. I have to look
5 back. August 13th. Yes.

6 Q. Description of event. Let's
7 read this closely, because I believe you
8 said there's no indication that this was
9 filled, right? Is that what you
10 mentioned. Let's go ahead and read this
11 together.

12 MR. KOBRIN: Object to form.
13 He said there was no indication in
14 the e-mail that this was filled at
15 a Giant Eagle.

16 THE WITNESS: Yes. That's
17 what I said. There was no
18 indication in the e-mail that it
19 was passed.

20 BY MR. HARRIS:

21 Q. Okay. Let's look at this
22 indication. It says, "Description of
23 event: Cleveland Clinic script passed at
24 two of our pharmacies in Ohio."

1 Did I read that correctly,
2 Mr. Shaheen?

3 A. Yes. I don't know that it
4 was filled. That's what I'm saying to
5 you. They can drop a prescription. But
6 that doesn't mean that we filled the
7 prescription. I would have to look to
8 see. If you want the right answer, I'd
9 have to look and see if on that day we
10 filled it.

11 You know, they could have
12 been alerting me based on receiving it
13 saying, Hey, I got this, Rick. They
14 tried to pass it at our script.

15 So I'm not being tough. I'm
16 telling you, I need something to say yes,
17 we filled it, or no, we didn't. But it
18 could have been that we just -- they just
19 dropped this script, and we refused it.

20 MR. HARRIS: Okay. Motion
21 to strike as nonresponsive.

22 BY MR. HARRIS:

23 Q. I'm going to re-ask my
24 question, Mr. Shaheen. I'm going to ask

1 you to listen to me. Okay?

2 Under description of event,
3 it says, "Cleveland Clinic script passed
4 at two of our pharmacies in Ohio."

5 Did I read that correctly?

6 A. Yes. That's what it says.

7 MR. KOBRIN: Asked and
8 answered.

9 BY MR. HARRIS:

10 Q. Okay. And then on the
11 second page attached to this pharmacy hot
12 sheet is another copy of the script from
13 the Cleveland Clinic, correct?

14 A. I'm just comparing it. Yes.

15 Q. Okay. Is this another
16 example of Giant Eagle employees going
17 above and beyond to prevent diversion?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: It is if we
20 didn't fill it. And that's what I
21 don't --

22 BY MR. HARRIS:

23 Q. And if you did fill it, does
24 that mean that it's not?

1 A. That's what I'm saying to
2 you, I don't know if they filled this
3 prescription or not. I don't have that
4 to back it up.

5 Q. All right. Mr. Shaheen --

6 MR. HARRIS: Josh, I'm going
7 to move into another section. I
8 don't know if you want to take a
9 break. Up to you. We can keep
10 pushing through or we can take a
11 break, depending on how you and
12 Mr. Shaheen feel.

13 MR. KOBRIN: How do you
14 feel, Rick? Do you want to take a
15 quick break?

16 THE WITNESS: Yeah, quick
17 break.

18 MR. HARRIS: If everyone is
19 comfortable pushing on, I'm fine
20 going forward a little bit more.
21 I can try to breeze through this,
22 and then I'm going to hit the spot
23 where I need to, you know, stop
24 and check my notes. So y'all's

1 call.

2 Madam Court Reporter, are
3 you okay?

4 MR. KOBRIN: Why don't we
5 take a three-minute break just to
6 so we give you a chance to go to
7 the restroom if you want to.

8 MR. HARRIS: Yeah, that's
9 fine. We'll come back in about
10 five minutes.

11 MR. KOBRIN: I just want to
12 make sure that the witness is
13 okay.

14 It's hard to read each other
15 through Zoom. But I don't want
16 to -- if he says he'd like to take
17 a break, I hear you. I'm fine
18 taking one. Let's just take a
19 very fast one. Five minutes?

20 MR. HARRIS: Yep.

21 MR. KOBRIN: Thanks.

22 THE VIDEOGRAPHER: Going off
23 the record. The time is 3:47.

24 (Short break.)

1 THE VIDEOGRAPHER: We are
2 going back on record. The time is
3 3:56.

4 BY MR. HARRIS:

5 Q. Okay. Mr. Shaheen, we're
6 back from our break. You understand that
7 you're still under oath?

8 A. Yes, I do.

9 Q. Okay. Fantastic.
10 I'd like to turn in your
11 binder Tab 4, up in the front. I'm going
12 to introduce what I believe is going to
13 be Shaheen-18.

14 (Document marked for
15 identification as Exhibit
16 Shaheen-18.)

17 MR. HARRIS: And this has a
18 Bates stamp P-GEN-150. I guess
19 it's actually P-GEN-00150.

20 BY MR. HARRIS:

21 Q. Let me know when you have
22 this up in front of you, Mr. Shaheen?

23 A. I have it.

24 Q. I understand this is a

1 larger document. I have a very narrow
2 focus that I'm going to review in that
3 portion that I intend to review. If you
4 need to read, you know, a little bit
5 forward or back, please let me know. I'm
6 happy to give you the time to do that.

7 Let's go ahead and start up
8 here at the top. It says, "Minutes of
9 the November 2nd through 4th, 2009
10 meeting of the Ohio State Board of
11 Pharmacy."

12 Do you see that?

13 A. I do.

14 Q. Okay. Have you ever read
15 meeting minutes of the Ohio State Board
16 of Pharmacy?

17 A. No.

18 Q. Okay. The Ohio State Board
19 of Pharmacy, that's a regulatory agency
20 that you often work with in the course of
21 your job?

22 A. Correct.

23 Q. And one of the functions
24 they do, in addition to providing advice,

1 is they often sometimes punish
2 pharmacists who act inappropriately or
3 illegally; is that correct?

4 A. That's correct.

5 Q. Okay. Again, if there's
6 anything that you'd like to review on the
7 front, I'm happy to allow you time to do
8 so. But what I would like you to do is,
9 if you notice in the bottom right corner
10 there's a series of numbers.

11 And if you turn, you'll see
12 there is a decimal. So the .001, on that
13 page that ends in .0010, if that makes
14 sense?

15 A. Yes.

16 Q. Okay. So do you see an
17 entry almost at the bottom that says
18 1:32 p.m.?

19 Yeah. So let's see, I want
20 to make sure that I've got you on the
21 right page.

22 A. I'm not on the right page or
23 it's not here.

24 Q. So it should be -- it should

1 be the one -- the page --

2 MR. HARRIS: Maybe if we can
3 highlight it for Mr. Shaheen, the
4 bottom right corner.

5 BY MR. HARRIS:

6 Q. Do you see on the screen,
7 Mr. Shaheen, where it shows -- do you see
8 where it says .0010.

9 A. Yes.

10 Q. That's kind of the page
11 number that I'm referring to on the
12 bottom right. Unfortunately that's the
13 only way that I can refer to it.

14 A. Okay. How many -- how many
15 pages in on this is it?

16 Q. I imagine that's ten pages
17 in, 10 or 11.

18 A. All right. Okay. Yep.

19 Q. Okay. Are you with me now?
20 Do you see the 1:32 p.m. entry?

21 A. Yes.

22 Q. Okay. All right. I'm just
23 going to ask a foundational question so
24 our record is a bit cleaner. So we're

1 looking at Shaheen-18, on the page ending
2 in .0010.

3 The bottom entry at
4 1:32 p.m. Do you see that, Mr. Shaheen?

5 A. I do see that.

6 Q. Okay. It says, "The board
7 reconvened in Room East B." Then it
8 follows up, "The board was joined by
9 assistant Attorney General Tracy Greuel
10 to conduct an adjudication hearing in
11 accordance with the Ohio revised code
12 Chapters 119 and 4729 in the matter of
13 Justin Allan Bracken, registered
14 pharmacist" -- a number -- "Canton,
15 Ohio."

16 Do you see where it says
17 that?

18 A. I do.

19 Q. Okay. Let's go to the next
20 page if you will.

21 All right. Here, we see the
22 underlined section in the middle. It
23 says, "Order of the State Board of
24 Pharmacy."

1 Do you see where we're
2 looking at that?

3 A. Yes.

4 Q. Okay. Then it says the
5 docket number, "In the matter of Justin
6 Allan Bracken, registered pharmacist."

7 Do you see that.

8 A. I --

9 Q. Sorry. It cut out.

10 A. Yes, I do.

11 Q. Okay. Thank you. Okay.

12 Then we see a little bit further down, it
13 says, "Summary of evidence." Lists a few
14 items. Feel free to browse those over if
15 you'd like. And then it goes on to the
16 next page. And that's what I would like
17 to refer to.

18 MR. KOBRIN: While you are
19 getting organized Josh, a standing
20 objection. I may be wrong. I
21 don't see how that is at all
22 relevant to the Track 3
23 litigation.

24 MR. HARRIS: Okay. I hope

1 to show that. So --

2 MR. KOBRIN: I'll give you
3 the chance. I just want to get
4 that upfront, rather than having
5 some late-breaking, "Wait a
6 minute, hold on."

7 But I'm sure you'll make --
8 you'll try to make a case that it
9 is.

10 BY MR. HARRIS:

11 Q. All right. Mr. Shaheen,
12 let's look at Number 35 on this list,
13 okay?

14 A. Okay.

15 Q. So going 35 down and
16 continue on to the next page. This is
17 drug accountability statement at Giant
18 Eagle pharmacy 4152.

19 Do you see that?

20 A. I do.

21 Q. Okay. If we go to
22 Shaheen-2, Page 4, almost at the bottom,
23 we see 4152 is a pharmacy in Stark
24 County, Ohio; is that right?

1 A. Yes.

2 Q. Do you know how far Stark
3 County, Ohio, is from Lake and Trumbull
4 County?

5 A. I don't.

6 Q. Okay. Have you ever, in
7 your time as either an agent for the
8 Pennsylvania Attorney General's office,
9 or in your time as a pharmacy
10 investigator for Giant Eagle, heard of
11 the term "migration" or "pill migration"?

12 A. No. We've never used -- we
13 didn't use it.

14 Q. All right. Understood. But
15 are you familiar with that term?

16 A. No.

17 Q. Okay. Have you ever heard
18 of what's called "The Oxy Express"?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: No.

21 BY MR. HARRIS:

22 Q. Okay. Would you agree with
23 me that people can transport prescription
24 drugs across county lines?

1 A. Yes.

2 Q. In fact, is that a potential
3 red flag when people get prescriptions
4 filled in different counties?

5 A. We have people -- no. No, I
6 don't -- I mean, I don't see that as a
7 red flag, as a coverall to a red flag.
8 No, I don't agree with that.

9 Q. Well, I'm not asking for a
10 coverall. I'm asking if it's a potential
11 red flag, people getting pills and
12 prescriptions filled in other counties?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: It could be
15 potential.

16 BY MR. HARRIS:

17 Q. Okay. Thank you.

18 Okay. So we've established
19 this is a pharmacy in Stark County, Ohio.

20 The -- 35 is an
21 accountability statement for temazepam.
22 So is 36.

23 MR. KOBRIN: Are you using
24 paragraph numbers?

1 MR. HARRIS: Yeah.

2 BY MR. HARRIS:

3 Q. So right here on the screen,

4 we have drug accountability statement.

5 Number 35 is drug accountability

6 statement at Giant Eagle pharmacy 4152

7 for temazepam 15 milligrams, right?

8 A. Yes.

9 Q. The next one is a statement

10 for temazepam 30 milligrams, correct?

11 A. Correct.

12 Q. And then we have clonazepam,

13 right?

14 A. Correct.

15 Q. Lorazepam?

16 A. Correct.

17 Q. 39, alprazolam -- well, 39,

18 40, 41, and 42 are all alprazolam,

19 correct, different strengths?

20 A. Different strengths,

21 correct.

22 Q. All right. Let's go to the

23 next page, continuing on. We have 43 and

24 44, different strength of clonazepam

1 statements, right?

2 A. Correct.

3 Q. 45 and 46 we have different
4 strength Lorazepam statements?

5 A. Correct.

6 Q. And 47, 48 we have different
7 strength hydrocodone statements, right?

8 A. Correct.

9 Q. Okay. We can zoom out of
10 that. Let's go to the findings of fact a
11 little bit further down on this page.

12 Okay?

13 A. Okay.

14 Q. It says, "After having heard
15 the testimony, observed the demeanor of
16 the witnesses, considered the evidence,
17 and weighed the credibility of each, the
18 State Board of Pharmacy finds the
19 following to be fact."

20 Do you see where I'm reading
21 that?

22 A. I see that.

23 Q. Okay. Number 1, "Records of
24 the board of pharmacy indicate that

1 Justin Allan Bracken was originally
2 licensed in the State of Ohio on
3 June 22nd, 2004, pursuant to examination
4 and his license to practice pharmacy in
5 Ohio was summarily suspended on
6 October 6, 2009."

7 Do you see that?

8 A. I see that.

9 Q. Okay. And Mr. Bracken was a
10 pharmacist at Giant Eagle Pharmacy 4152
11 correct?

12 A. Did it say that anywhere? I
13 didn't see that. I don't know him.

14 MR. KOBRIN: Yeah, objection
15 as to relevance. This all
16 precedes Mr. Shaheen's employment
17 with Giant Eagle.

18 THE WITNESS: This is -- I
19 was there -- this is 2009.

20 BY MR. HARRIS:

21 Q. Okay. So let me ask it this
22 way. You don't actually know Justin
23 Allan Bracken, correct?

24 A. Correct.

1 Q. Okay. But from the
2 indications, the drug accountability
3 statements at Giant Eagle Pharmacy 4152,
4 does that lead you to believe that he was
5 a pharmacist at that store?

6 MR. KOBRIN: Where is that,
7 Josh, real quick again?

8 MR. HARRIS: What was that?
9 I'm sorry.

10 MR. KOBRIN: Where is the
11 4152 in here?

12 MR. HARRIS: Oh, so all the
13 drug accountability statements we
14 looked at, they're all drug
15 accountability statements at Giant
16 Eagle Pharmacy 4152. And if we
17 look at Shaheen-2, the Pharmacy
18 4152 is the Massillon pharmacy in
19 Stark County, Ohio.

20 MR. KOBRIN: Okay. I
21 just -- I'm not trying to be
22 difficult.

23 You know, I thought it was
24 somewhere where it said he worked

1 there.

2 BY MR. HARRIS:

3 Q. If you'll give me a little
4 leeway, Mr. Shaheen, we'll get to that
5 point. Okay. I'm happy to skip ahead if
6 you feel more comfortable, but let's read
7 these in order and we'll hit that point.
8 All right?

9 A. Okay.

10 Q. So Number one we read.
11 Let's look at Number 2. "Justin Allan
12 Bracken" --

13 MR. HARRIS: And let's
14 underline this part, please.

15 BY MR. HARRIS:

16 Q. -- "is addicted to or
17 abusing drugs and/or impaired physically
18 or mentally to such a degree as to render
19 him unfit to practice pharmacy."

20 Do you see where I read
21 that, Mr. Shaheen?

22 A. I do.

23 Q. It goes on to say, "To wit:
24 Justin Allan Bracken is addicted to the

1 use of controlled substances, and Justin
2 Allan Bracken has stolen drugs from his
3 employer to supply his addiction."

4 Do you see where I've read
5 that?

6 A. I do.

7 Q. Okay. "Justin Allan Bracken
8 was, on or about May 20, 2009, observed
9 passed out in a vehicle in front of a
10 liquor store and observed acting impaired
11 once aroused." Correct?

12 A. Yes.

13 Q. Okay. Let's turn to the
14 next page, please. This is still under
15 the findings of fact. We're going to go
16 to Paragraph 8.

17 It says, "8. Justin Allan
18 Bracken did from April 30th, 2007, to
19 May 20th, 2009, with purpose to deprive,
20 knowingly obtain or exert control over
21 dangerous drugs, the property of Giant
22 Eagle Pharmacy 4152 beyond the express or
23 implied consent of the owner.

24 "To wit: Justin Allan

1 Bracken possessed a stock container of
2 temazepam 15 milligrams from his
3 employer."

4 Do you see that?

5 A. Yes.

6 Q. Okay. So he took controlled
7 substances from Giant Eagle Pharmacy 4152
8 is what it says, right?

9 A. Yes.

10 Q. And then they refer to that
11 as his employer, correct?

12 A. Correct.

13 Q. So based on the information
14 provided -- and I understood that you
15 were not employed by Giant Eagle at the
16 time. Based on the information provided
17 under the findings of fact by the Ohio
18 Board of Pharmacy, would you agree that
19 Justin Allan Bracken was a Giant Eagle
20 pharmacist?

21 MR. KOBRIN: Object to form.

22 He can only agree to -- that
23 that's what it says here.

24 MR. HARRIS: Okay.

1 BY MR. HARRIS:

2 Q. Can you agree that's what it
3 says here then, Mr. Shaheen?

4 MR. HARRIS: That's fair
5 enough, Josh.

6 THE WITNESS: Yes.

7 BY MR. HARRIS:

8 Q. Okay. Thank you. Let's go
9 down to Number 9. It says, "Justin Allan
10 Bracken as the responsible person between
11 April 30, 2007 and May 20, 2009, failed
12 to provide supervision and control and
13 adequate safeguards over the listed Giant
14 Eagle 4152 dangerous drug stocks.

15 "To wit: The following
16 dangerous drugs were diverted without
17 detection."

18 Do you see that?

19 A. I do.

20 Q. Okay. Next it says,
21 "Alprazolam, 25" -- or ".25 milligrams,
22 199 quantity."

23 Do you see where it says
24 that?

1 A. I do.

2 Q. "Alprazolam .5 milligrams,
3 143 quantity."

4 Do you see that?

5 A. Yes, I do.

6 Q. "Alprazolam, 1 milligram, 74
7 quantity."

8 Do you see that?

9 A. Yes.

10 Q. "Alprazolam, 2 milligrams,
11 57 quantity."

12 Do you see that?

13 A. Yes.

14 Q. Do you agree that alprazolam
15 falls into the category of those cocktail
16 drugs we talked about earlier?

17 MR. KOBRIN: Object to form.

18 No foundation.

19 BY MR. HARRIS:

20 Q. Mr. Shaheen, do you know
21 what a cocktail drug is?

22 A. I've heard of that term
23 before. I know that alprazolam is one of
24 the benzodiazapines.

1 Q. Okay. Well, I apologize.

2 Let me ask it this way.

3 Earlier we referred to
4 trinity drugs or the Holy Trinity. Do
5 you remember that conversation?

6 A. Yes.

7 Q. Okay. And you indicated
8 that if these three types of drugs are
9 prescribed together, it could be a
10 potential sign of diversion, correct?
11 And those drugs were opioids,
12 benzodiazapine, and muscle relaxants,
13 right?

14 A. Correct.

15 Q. Alprazolam is a
16 benzodiazapine, correct?

17 A. Correct.

18 Q. So it's one drug that could
19 be a potential red flag for diversion,
20 right?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Yes. It's
23 possible.

24 BY MR. HARRIS:

1 Q. Okay. In fact, the Ohio
2 Board of Pharmacy labeled it as a
3 dangerous drug right there in Paragraph
4 9, didn't they?

5 MR. KOBRIN: Object to form.
6 He can only say what's there.

7 MR. HARRIS: Yeah. That's
8 what I'm asking.

9 BY MR. HARRIS:

10 Q. Right here, the Ohio Board
11 of Pharmacy says Mr. Bracken did not have
12 the -- did not provide supervision and
13 control and adequate safeguards over the
14 listed Giant Eagle 4152 dangerous drug
15 stocks. Right, Mr. Shaheen? That's what
16 it says right there, dangerous drug
17 stocks?

18 A. Yes. That's what it says.

19 Q. Okay. Let's keep going.
20 Clonazepam, half a milligram, 701
21 quantity.

22 Do you see that?

23 A. Yes.

24 Q. Clonazepam, 1 milligram, 214

1 quantity.

2 Do you see that?

3 A. Yes.

4 Q. Clonazepam, 2 milligrams, 61

5 quantity.

6 Do you see that that one?

7 A. I do.

8 Q. Lorazepam, half a milligram,

9 335 quantity.

10 Do you see that?

11 A. Yes.

12 Q. Lorazepam, 1 milligram, 10

13 quantity.

14 Do you see that?

15 A. Yes.

16 Q. Lorazepam, 2 milligram, 115

17 quantity.

18 Do you see that?

19 A. Yes.

20 Q. Let's go to the next page.

21 Up at the top, we start, temazepam,

22 15 milligrams, 113 quantity.

23 Do you see that?

24 A. I do.

1 Q. Temazepam, 30 milligrams, 67
2 quantity.

3 Do you see that?

4 A. Yes.

5 Q. Hydrocodone,
6 5/500 milligrams, 513 quantity.

7 Do you see that?

8 A. I do.

9 Q. Hydrocodone,
10 7.5/750 milligrams, 706 quantity.

11 Do you see that?

12 A. I do.

13 Q. Okay. And I hate to do this
14 to you. We're going to flip to the last
15 page. This is under the findings of fact
16 where Ohio Board of Pharmacy said, "The
17 following dangerous drug" -- the list
18 that we just went over -- "The following
19 dangerous drugs were diverted without
20 detection."

21 MR. HARRIS: Let's go ahead
22 and highlight that and underline
23 it in red for Mr. Shaheen, please.

24 BY MR. HARRIS:

1 Q. "The following dangerous
2 drugs were diverted without detection."
3 And it goes through that whole list you
4 and I just walked through.

5 Is that what that says,
6 Mr. Shaheen?

7 MR. KOBRIN: Show me where
8 you are again. I'm not sure where
9 you jumped to now.

10 MR. HARRIS: We went back
11 one page to Paragraph 9, before
12 the list of all the drugs that
13 were diverted without detection
14 started.

15 BY MR. HARRIS:

16 Q. Do you see where I am,
17 Mr. Shaheen?

18 A. Yes.

19 Q. Okay. And you agree with
20 me, the Ohio Board of Pharmacy found that
21 from Giant Eagle 4152 dangerous drug
22 stock, the following dangerous drugs were
23 diverted without detection.

24 Is that what that says right

1 there?

2 MR. KOBRIN: Object to form.

3 That is a little mixed.

4 He can read this to you.

5 You can read it. Anyone can read

6 it. He can't say what the Board

7 of Pharmacy found, concluded, or

8 anything like that.

9 MR. HARRIS: I'm not asking

10 him to. I'm asking him, in their

11 minutes, the Board of Pharmacy put

12 this. So I'm asking him to say

13 what the Board of Pharmacy put in

14 their findings of fact.

15 BY MR. HARRIS:

16 Q. So I'll repeat it again,

17 Mr. Shaheen. And I'll put that caveat so

18 it's good for your attorney.

19 Under the Ohio Board -- Ohio

20 State Board of Pharmacy findings of fact,

21 Paragraph 9, they put, "Giant Eagle 4152

22 dangerous drug stocks. To wit: The

23 following dangerous drugs were diverted

24 without detection."

1 That's what that says,
2 doesn't it, Mr. Shaheen?

3 A. Yes.

4 Q. Is this an example of Giant
5 Eagle pharmacists going above and beyond
6 to prevent the diversion of prescription
7 drugs, including opioids?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: I don't know
10 anything about this case. This is
11 the first I heard of it. I don't
12 know who did what. I don't know
13 who investigated it. I don't know
14 how it got to this point. I would
15 like to know more facts about it.

16 I see what you're saying,
17 and you heard my responses to your
18 questions.

19 But I -- I can't -- I can't
20 say what anybody did prior to that
21 and how this was even uncovered.

22 BY MR. HARRIS:

23 Q. Is that because it went
24 diverted without detection?

1 MR. KOBRIN: Object to form.

2 It was obviously detected.

3 THE WITNESS: Yeah, how is

4 it detected? Who found it out?

5 BY MR. HARRIS:

6 Q. That's a great question.

7 Apparently not a Giant Eagle though,

8 looking at this, correct?

9 MR. KOBRIN: Object to form.

10 That -- Mr. Harris, to be fair if

11 you're going to tell him that it

12 wasn't at Giant Eagle, why don't

13 you show him how it was found out.

14 Because it's probably in this

15 report. If it's not, it's

16 somewhere else in the record.

17 If you're going to present

18 this finding about Mr. Bracken who

19 you allege worked for Giant Eagle

20 over a decade ago, I think you

21 should probably tell us what

22 happened here and how we

23 discovered it.

24 MR. HARRIS: Sure.

1 BY MR. HARRIS:

2 Q. All of these -- Mr. Shaheen,
3 all of those drug accountability
4 statement forms that I looked at with
5 you, all those we went over, those were
6 provided to the Ohio Board of Pharmacy so
7 they can find their findings of fact.

8 Do you recall going through
9 that list of drug accountability
10 statement forms?

11 MR. KOBRIN: Who provided
12 those, Josh?

13 BY MR. HARRIS:

14 Q. Do you remember going over
15 those, Mr. Shaheen?

16 A. I need to see it. Which one
17 was it?

18 Q. Let's flip back. The page
19 that ends in .0012. And it starts Number
20 35, "Drug accountability statement at
21 Giant Eagle Pharmacy 4115."

22 And it goes through and
23 delineates on this page seven categories
24 of drugs, and on the next page about

1 another --

2 A. Okay.

3 Q. -- six more, right? And
4 those are the drugs that we just talked
5 about, right?

6 A. Right.

7 Q. Okay. So if we go back to
8 Page 14 -- and I'm happy to stop and let
9 you do the math.

10 The Ohio Board of Pharmacy
11 found that Giant Eagle 4152 had the
12 following dangerous drugs that were
13 diverted without detection. There are
14 3,310 different pills, quantities, that
15 were diverted without detection. That's
16 what this says, right, Mr. Shaheen?

17 MR. KOBRIN: Object to form.
18 You're mixing up a lot of things
19 and you're saying Giant Eagle did
20 stuff. There's nothing here about
21 Giant Eagle doing anything.

22 MR. HARRIS: I think that's
23 partially the point. But my --
24 I'll rephrase my question. And

1 I'll put it very simply.

2 BY MR. HARRIS:

3 Q. And, Mr. Shaheen, I'm happy
4 to stop and let you do the math on it. I
5 just used my phone calculator to figure
6 it out.

7 It says, "Justin Allan
8 Bracken, as the responsible person" --
9 who we've already established was a Giant
10 Eagle employee -- "between April 30,
11 2007, and May 20, 2009, failed to provide
12 supervision and control and adequate
13 safeguards over the listed Giant Eagle
14 4152 dangerous drug stocks. To wit: The
15 following dangerous drugs were diverted
16 without detection."

17 And then it lists out 3,310
18 dangerous drugs that were diverted
19 without detection.

20 Is that what this says,
21 Mr. Shaheen?

22 MR. KOBRIN: Object to form.

23 You don't need to do the
24 math, Mr. Shaheen.

1 He can only state what he's
2 already stated. This has been
3 asked and answered. He can say
4 that's what it says.

5 That's all he can do. I'm
6 not sure where we're going with
7 this over and over again. He
8 neither worked for the company
9 then, nor does he know anything
10 about this case.

11 Go ahead, Rick.

12 THE WITNESS: I have no
13 knowledge about this case. I
14 would like to look into it. I see
15 what it says in the paragraph.

16 But I don't know what
17 happened with this person, other
18 than, you know, the Ohio Board
19 sanctioned him or took actions
20 against him.

21 BY MR. HARRIS:

22 Q. Is this an example of Giant
23 Eagle pharmacists going above and beyond
24 to prevent diversion of opioids?

1 MR. KOBRIN: Object to form.

2 Asked and answered.

3 THE WITNESS: Once again, I

4 don't know how this was detected.

5 I don't know who investigated it.

6 If they were proactive in

7 their investigation, that

8 eventually they ended up, you

9 know -- whether they were using

10 cameras or did controlled counts,

11 whether the Board was involved, I

12 don't know what they did.

13 So I can't give you -- I

14 can't give you another answer. I

15 don't know what happened in this

16 case, other than these clips that

17 we just reviewed.

18 BY MR. HARRIS:

19 Q. All right. Let's go to Tab

20 2 in your binder. This is another

21 minutes of the December 5th through 7th,

22 2011, meeting of the Ohio State Board of

23 Pharmacy.

24 Do you see that?

1 MR. HARRIS: Well, sorry,
2 let me do this first, Mr. Shaheen.

3 (Document marked for
4 identification as Exhibit
5 Shaheen-19.)

6 MR. HARRIS: This will be
7 Shaheen-19 for the deposition.

8 And this was produced P-GEN-00148.

9 BY MR. HARRIS:

10 Q. Do you see at the top where
11 it says, "Minutes of the December 5th
12 through 7th, 2011, meeting of the Ohio
13 State Board of Pharmacy"?

14 A. Yes.

15 Q. Okay. Again, there's more
16 in here that we don't need to refer to
17 it. But if you want to turn about four
18 pages in, in the middle, it says
19 R2012-102. Let me know when you get to
20 this page.

21 A. Okay.

22 Q. Okay. It says, "Settlement
23 agreement with the State Board of
24 Pharmacy," docket number, "in the matter

1 of Giant Eagle 4098, courtesy of Kelly
2 Ann Chappell, registered pharmacist."

3 Do you see that?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: Yes.

6 BY MR. HARRIS:

7 Q. Okay. Then it says -- if we
8 go to Shaheen-2, Pharmacy 4098 is the
9 Chardon store in Geauga County.

10 Do you know where Chardon
11 is, Mr. Shaheen?

12 A. I know it's in Ohio. I
13 don't have an exact location. I believe
14 I was there at the store.

15 Q. Okay. I'll represent to you
16 that it's less than ten miles from Lake
17 County and less than ten miles from
18 Trumbull, almost in the middle.

19 Does that sound about right?

20 A. I don't -- I don't know. I
21 know it's over that way. That's all I
22 can tell you.

23 Q. Okay. That's okay. All
24 right.

1 This says -- the first
2 paragraph, "This settlement agreement is
3 entered into by and between Giant Eagle
4 4098 and the Ohio State Board of
5 Pharmacy."

6 Do you see where it says
7 that?

8 A. Yes.

9 Q. Okay. Let's go ahead and
10 turn to the next page. Sorry, if we can
11 go back one more. I skipped a section.
12 I do apologize.

13 Second paragraph starts off.
14 "Giant Eagle 4098 enters into this
15 agreement being fully informed of its
16 rights afforded under Chapter 119."

17 Do you see where it says
18 that?

19 A. Yes.

20 Q. Okay. So this is -- this is
21 a settlement agreement, as its labeled at
22 the top, between Giant Eagle 4098 and the
23 Ohio Board of Pharmacy, correct?

24 A. Yes. That's what it says.

1 Q. Okay. Let's turn to the
2 next page. The second full paragraph
3 starts, "Whereas, on or about July 14th,
4 2011, pursuant to Chapter 119 of the Ohio
5 Revised Code, Giant Eagle 4098 was
6 notified of the allegations or charges
7 against it, its right to a hearing, its
8 right in such hearing, and its right to
9 submit contentions in writing.

10 "Further, a hearing was
11 scheduled and continued by the board.
12 The July 14, 2011 notice of opportunity
13 for hearing contains the following
14 allegations or charges."

15 Do you see that?

16 A. Yes.

17 Q. Okay. Number 1, "Records of
18 the Board of Pharmacy indicate that Giant
19 Eagle 4098 is licensed with the State
20 Board of Pharmacy as a terminal
21 distributor of dangerous drugs."

22 Do you see where it says
23 that?

24 A. Yes.

1 Q. "Records further reflect
2 during the relevant time period stated
3 herein, Kelly Ann Chappell was the
4 responsible pharmacist pursuant to" --
5 and it provides a rule for the Ohio
6 Administrative Code.

7 Do you see where it says
8 that?

9 A. I do.

10 MR. KOBRIN: I'll just ask
11 for another standing objection as
12 to the relevance of this.

13 It's outside of the Track 3
14 counties. I don't think there's
15 any relationship, and the witness
16 did not work at the company when
17 these proceedings took place.

18 MR. HARRIS: Okay. Well,
19 I'll -- I'll establish -- well,
20 I'll represent that this is --

21 MR. KOBRIN: Standing
22 objection. It's fine. As long as
23 you're okay with it, I'll just put
24 a standing objection there so I

1 don't have to interrupt you.

2 MR. HARRIS: Okay. That
3 works. Thanks, Josh.

4 BY MR. HARRIS:

5 Q. "Number 2, Giant Eagle
6 pharmacy 4098 did, from May 1st, 2009
7 through January 21st, 2011, fail to
8 provide effective and approved controls
9 and procedures to deter and detect theft
10 and diversion of dangerous drugs."

11 Do you see where it says
12 that?

13 A. Yes.

14 Q. Okay. I believe earlier you
15 testified you're not aware of when Giant
16 Eagle implemented it's SOMS program; is
17 that correct?

18 A. It's what program?

19 Q. Its suspicious order
20 monitoring system.

21 A. Yeah, no, I'm not aware.

22 Q. Okay. Let's reads the last
23 sentence here. It says -- well, we'll
24 finish this one. "To wit: The following

1 controlled substances and dangerous drugs
2 were stolen from the pharmacy, yet
3 internal control procedures failed to
4 deter or detect the theft."

5 Do you see where it says
6 that?

7 A. Yes.

8 Q. "The drugs were stolen by an
9 inadequately supervised technician who
10 admitted to a Board agent that the drugs
11 were diverted to her addicted husband and
12 also sold to another individual."

13 Do you see where it says
14 that?

15 A. I do.

16 Q. Okay. Paragraph 3, Giant
17 Eagle Pharmacy 4098 did, from May 1st,
18 2009 to January 21st, 2011, failed to
19 provide effective and approved controls
20 and procedures to deter her and detect
21 theft and diversion of dangerous drugs."

22 Do you see where it says
23 that?

24 A. Yes.

1 Q. Let's go on. "To wit: The
2 following controlled substances and
3 dangerous drugs were stolen from the
4 pharmacy, yet internal control procedures
5 failed to deter or detect the theft. The
6 drugs were stolen by an inadequately
7 supervised technician, who admitted to
8 the board agent that the" -- let's go to
9 the next page -- "drugs were diverted to
10 her addicted husband and also sold to
11 another individual."

12 Right?

13 A. Yes.

14 Q. And then we list out the
15 drugs that were -- the allegations say
16 were stolen. Let's go through this list.

17 It says, "Drug, hydrocodone.
18 Shortage, 1,321."

19 Do you see that?

20 A. I do.

21 Q. Next, two down, "Drug,
22 hydrocodone. Shortage, 5,237."

23 Do you see that?

24 A. I do.

1 Q. Next, "Hydrocodone," and
2 this is another strength. "Shortage,
3 6,161."

4 Do you see that?

5 A. I do.

6 Q. "Hydrocodone," next down,
7 "shortage, 30,566."

8 Do you see that?

9 A. I do.

10 Q. "Hydrocodone. Shortage,
11 5,282."

12 Do you see that?

13 A. Yes.

14 Q. "Hydrocodone. Shortage,
15 14,586."

16 Do you see that?

17 A. Yes.

18 Q. "Hydrocodone. Shortage,
19 5,523."

20 Do you see that?

21 A. Yes.

22 Q. "Hydrocodone. Shortage,
23 17,512."

24 Do you see that?

1 A. Yes.

2 Q. Hydrocodone, 1,057 shortage.

3 Do you see that?

4 A. Yes.

5 Q. Okay. Let's go down --

6 well, let's go -- so you agree the Ohio

7 Board of Pharmacy settled with Giant

8 Eagle Pharmacy 4098 based on the

9 allegations that this pharmacist diverted

10 tens of thousands of pills to her

11 addicted husband and sold some to another

12 individual? That's what this document

13 says?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: No.

16 MR. KOBRIN: He can't agree

17 to anything in this document.

18 THE WITNESS: No.

19 MR. HARRIS: I'm not asking

20 him to agree to the substance of

21 it. I'm asking him to agree that

22 that's what the document says.

23 MR. KOBRIN: Any of us can

24 read it. I don't understand why

1 you're wasting your time with this
2 with him. He has no knowledge of
3 this. He has no relationship with
4 the company at the time that these
5 events happened. He's not a
6 30(b)(6).

7 I mean, this has nothing to
8 do with him at all. I mean, he
9 can read it, yes. But you're
10 getting testimony that he can read
11 that on the page? I guess I'll
12 allow that. But it seems like a
13 tremendous waste of time.

14 BY MR. HARRIS:

15 Q. Okay. Mr. Shaheen, let me
16 repeat my question for you, since your
17 counsel let you answer it.

18 The question was: So you
19 agree that the Ohio Board of Pharmacy
20 settled with Giant Eagle Pharmacy 4098
21 based on the allegations that this
22 pharmacist diverted tens of thousands of
23 pills to her addicted husband and sold
24 some to another, is what this document

1 says, correct?

2 MR. KOBRIN: He has no basis
3 on which to agree that there was
4 an action, which is what you asked
5 for, that there was a settlement.

6 He has no knowledge of any
7 of this. He can say that's what
8 he read. I'll allow him to
9 testify that's what the page that
10 you put in front of him says.

11 We did not produce this.
12 You've presented it to him in a
13 deposition, and he can read it.
14 And he can say that those are the
15 words.

16 MR. HARRIS: Okay.

17 BY MR. HARRIS:

18 Q. Mr. Shaheen, do you need me
19 to repeat my question, or do you agree
20 that's what the document says?

21 A. Well, there was -- you're
22 saying a pharmacist. Where did it say in
23 this document that it was a pharmacist
24 that diverted?

1 Q. Absolutely. Let's go back.

2 Let me ask that question.

3 A. Did I miss that?

4 Q. Yes, so, you may have.

5 Let's go back one page, Paragraph 1. You
6 follow me?

7 A. Yes.

8 MR. HARRIS: Let's highlight
9 that.

10 BY MR. HARRIS:

11 Q. And it says, the second
12 sentence, I believe, "Records further
13 reflect during the relevant time periods
14 stated herein, Kelly Ann Chappell was the
15 responsible pharmacist pursuant to" -- a
16 rule of Ohio Administrative Code.

17 Do you see that?

18 A. Yes.

19 Q. Okay. And then let's go
20 down to Number 3.

21 A. Okay.

22 Q. So Kelly Ann was the
23 pharmacist. And then the last sentence
24 says, "The drugs were stolen by an

1 inadequately supervised technician who
2 admitted to a Board agent that the drugs
3 were diverted to her addicted husband and
4 also sold to another individual."

5 Do you see that?

6 A. I see that.

7 Q. Okay.

8 A. So my answer to you -- and
9 maybe you misspoke. You claimed it was a
10 pharmacist diverted. And that's not what
11 it says.

12 Q. Okay. Thank you for that
13 clarification. I'm happy to re-ask my
14 question.

15 Based on your review of this
16 document, this document, and what you've
17 read in this document, this states that
18 the Ohio Board of Pharmacy settled with
19 Giant Eagle Pharmacy 4098 based on the
20 allegations that a Giant Eagle technician
21 diverted tens of thousands of pills to
22 her addicted husband and sold some to
23 another individual; is that correct?

24 A. Without me reading it, it

1 looks like it is some type of agreement,
2 settlement, based on the title, with
3 Giant Eagle. Mm-hmm. Yeah.

4 Q. So you agree that this
5 document states that it's a settlement
6 agreement with the allegations being that
7 a technician diverted tens of thousands
8 of pills to her addicted husband and sold
9 to another individual, correct?

10 A. Correct.

11 Q. That's what this document
12 states, correct?

13 A. Yes, sir. I have no
14 knowledge of this, but you are correct.

15 Q. Understood. Is diverting
16 tens of thousands of hydrocodone an
17 example of Giant Eagle pharmacies and
18 Giant Eagle technicians going above and
19 beyond to prevent the diversion of
20 opioids?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Obviously, you
23 know, somebody -- again, I don't
24 know who investigated, how they

1 determined. Obviously somebody
2 got arrested in this particular
3 case.

4 I don't know what was
5 happening in 2009 or '10 or '11 or
6 whatever year this was.

7 You know, I started in 2013,
8 the end of the year.

9 So I don't know anything
10 about -- about this case.

11 And actually, this is the
12 first time I saw anything about
13 this.

14 BY MR. HARRIS:

15 Q. Okay. So I understand. I
16 appreciate that answer. But I guess my
17 question is a bit more simple, yes or no.

18 Is the allegations contained
19 in here, if true, is that -- strike that.

20 A simple yes or no. Is this
21 an example of Giant Eagle employees going
22 above and beyond to prevent diversion?

23 A. I don't know how this was
24 uncovered --

1 MR. KOBRIN: Object to form.

2 Object to form.

3 Give me a beat.

4 THE WITNESS: Okay. I don't

5 know how this was uncovered. I

6 don't know how this all developed.

7 To give you that proper

8 answer, I would have to know the

9 history and take a look.

10 I see the end result. But I

11 don't know how it got there.

12 BY MR. HARRIS:

13 Q. Okay. All right. Let's go

14 to Tab 3. We'll go through this one real

15 quick, and I think I'll be at a point

16 where I can take a break to start closing

17 up.

18 So let's go through this one

19 Mr. Shaheen, and then we'll take a quick

20 pause. Okay?

21 A. Yes, sir.

22 MR. HARRIS: Tab 3. We're

23 going to label this Shaheen-20 for

24 the record.

1 (Document marked for
2 identification as Exhibit
3 Shaheen-20.)

4 MR. HARRIS: This is
5 P-GEN-00149. Okay.

6 BY MR. HARRIS:

7 Q. At the top it says, "Minutes
8 of the September 11th through 12th, 2017
9 meeting of the State of Ohio Board of
10 Pharmacy."

11 Do you see where it says
12 that?

13 A. Yes.

14 Q. And then you certainly were
15 employed by Giant Eagle in September of
16 2017, right?

17 A. Correct.

18 Q. Okay. Let's go ahead -- and
19 I apologize again. There's -- oh,
20 actually, this one is going to be a touch
21 easier. If you see at the top right, if
22 you go in the next page, we actually have
23 page numbers on this one.

24 So if you go to, the top

1 right, Page 87. That's a lot easier than
2 these decimal numbers.

3 A. Yes. Okay.

4 Q. Okay. If we go to the very
5 bottom. It's R-2018-0086. "Ms. Marchal
6 announced the following settlement
7 agreement has been signed by all parties
8 and is now effective." And it starts,
9 "In the matter of," and it goes to the
10 next page, right?

11 And it says, "In the matter
12 of Giant Eagle Pharmacy 6501 and Shawna
13 Ricker, registered pharmacist."

14 Do you see where it says
15 those names?

16 A. Okay.

17 Q. Okay. If we look at
18 Shaheen-2, we can see that Giant Eagle
19 Pharmacy 6501 is the Gahanna pharmacy in
20 Franklin County, Ohio.

21 Do you know where Franklin
22 County, Ohio is?

23 A. I know it's near Columbus.

24 Q. Okay. Fair enough. Do you

1 know about how far drivingwise Columbus
2 is from Lake County, roughly?

3 A. No. No. Maybe two, two and
4 a half hours. I don't know.

5 Q. Okay. Do you know from
6 maybe Columbus to Cleveland?

7 A. Two, two and a half. I'm
8 guessing. I don't know.

9 Q. No worries. I'm not going
10 to hold you to that.

11 Let's read this paragraph.
12 "Settlement agreement with the State of
13 Ohio Board of Pharmacy."

14 It says, "This settlement
15 agreement is entered into by the state of
16 Ohio Board of Pharmacy, Board, and Giant
17 Eagle Pharmacy 6501 and Shawna Ricker for
18 the purpose of resolving all issues
19 between the parties relating to the Board
20 investigation of the failure to report
21 significant drug losses to the Board."

22 Do you see that?

23 A. Yes.

24 MR. KOBRIN: I'm going to

1 ask to have another standing
2 objection. This is outside of the
3 Track 3 jurisdiction. I don't see
4 how it's relevant in this
5 particular track of the case. So
6 I would like a standing objection
7 on that issue.

8 MR. HARRIS: Okay. Sure.

9 BY MR. HARRIS:

10 Q. Let's go down to the fact
11 section at the bottom of this page. It
12 says, "Facts. 1. On or about March 9th,
13 2016, the Board initiated an
14 investigation of Giant Eagle Pharmacy
15 6501, terminal distributor of dangerous
16 drugs license number" -- provides their
17 license number -- and Shawna Ricker's
18 license number, and then provides her
19 license number -- "related to the Giant
20 Eagle Pharmacy 6501 and Shawna Ricker's
21 failure to report significant drug losses
22 to the Board."

23 Do you see where it says
24 that?

1 A. I do.

2 Q. Okay. Let's go to the next
3 page. Under terms, Number 2, it says,
4 "Giant Eagle Pharmacy 6501 and Shawna
5 Ricker neither admit nor deny the
6 allegations stated in the notice of
7 opportunity for hearing letter dated
8 May 30th, 2017; however, the Board has
9 evidence sufficient to sustain
10 allegations, finds them to violate Ohio's
11 pharmacy law as set forth in the notice,
12 and hereby adjudicates the same."

13 Do you see where it says
14 that?

15 A. I do.

16 Q. Okay. Number 3 says, "Giant
17 Eagle Pharmacy 6501 agrees to pay the
18 Board a monetary penalty in the amount of
19 \$2,500 by means of a cashier's check."

20 Do you see where it says
21 that?

22 A. Yes.

23 Q. "4. Giant Eagle Pharmacy
24 agrees to" -- excuse me -- "Giant Eagle

1 Pharmacy 6501 agrees to" -- and then we
2 have a couple factors listed out.

3 Do you see that?

4 A. Yes.

5 Q. "A. Continue training staff
6 in best practices, quarterly education
7 meetings, and training pharmacy staff in
8 loss prevention measures, including
9 inventory recordkeeping and security of
10 controlled substances." Right?

11 A. Yes.

12 Q. "B. Continue training
13 pharmacy staff on the company's
14 controlled substance dispensing
15 guidelines and other policies and
16 procedures for the filing and dispensing
17 of prescriptions for controlled
18 substances and to periodically review" --
19 "and to the periodically review" --
20 excuse me -- "and revise such policies as
21 appropriate."

22 Do you see where it says
23 that?

24 A. Yes.

1 Q. Okay. "C. Continue to
2 evaluate and monitor the pharmacy's
3 physical theft/loss prevention measures
4 which include but are not limited to..."

5 Do you see that?

6 A. Yes.

7 Q. And then it provides out a
8 list of measures that can be taken to
9 prevent loss, right?

10 A. Yes.

11 Q. Okay. Let's go to the next
12 page, Paragraph D.

13 It says, "Require Giant
14 Eagle Pharmacy 6501 pharmacists to
15 complete and/or repeat DEA continuing
16 education on controlled substances,"
17 right?

18 A. Yes.

19 Q. And, finally, "E. Continue
20 to perform regular internal audits on
21 controlled substance compliance with
22 federal and state laws and regulations as
23 well as compliance with company policies
24 and procedures." Right?

1 A. Yes.

2 Q. Okay. So here, the Ohio
3 Board of Pharmacy in this settlement,
4 states -- and this is back at Paragraph 2
5 on Page 89.

6 The Ohio Board of Pharmacy
7 states, "The board has sufficient
8 evidence to sustain the allegations,
9 finds them to violate Ohio's pharmacy law
10 as set forth in the notice and hereby
11 adjudicates the same." Right?

12 A. Yes.

13 Q. Mr. Shaheen, is this an
14 example of Giant Eagle pharmacists and
15 Giant Eagle itself going above and beyond
16 to prevent the diversion of controlled
17 substances which include opioids?

18 MR. KOBRIN: Object to form.
19 Objection. Relevance for this
20 document.

21 THE WITNESS: Once again, as
22 I previously stated, the fact that
23 it was detected and information
24 was provided to the Ohio Board,

1 the Ohio Board agents, again,
2 counts were being conducted, video
3 was reviewed, and obviously here,
4 the Board had -- there was some
5 type of agreement -- again, the
6 first time I'm seeing this
7 document.

8 MR. KOBRIN: I don't want
9 you to speculate on anything,
10 Rick. If this is the first time
11 that you're seeing this document,
12 I don't think you can really speak
13 to anything about this document
14 unless you've got personal
15 knowledge about the events.

16 MR. HARRIS: I'll object to
17 instructing the witness
18 mid-answer.

19 BY MR. HARRIS:

20 Q. But, Mr. Shaheen, you can
21 continue if you have an answer after
22 that.

23 MR. KOBRIN: Sorry.

24 THE WITNESS: Yeah, that --

1 no, that -- I mean, you know,
2 it's what I've said previously.

3 I think -- you know, I think
4 that what we do, this happened,
5 and then you know, to try to
6 prevent it, those are some of the
7 things that we did and tried to
8 determine what the losses were at
9 that store, working with the
10 Board.

11 And you know, that's
12 where -- that's where, you know,
13 we end up, is always working with
14 the Board, always trying to
15 improve on policies and procedures
16 that we have in effect at our
17 stores.

18 BY MR. HARRIS:

19 Q. And in fact, that's what
20 Giant Eagle had to agree to, especially
21 this specific store, 6501. Giant Eagle
22 had to agree to improve their systems and
23 continue training their pharmacists;
24 isn't that right?

1 MR. KOBRIN: Object to form.
2 Misrepresents the document. It
3 doesn't say anything about Giant
4 Eagle having to agree to anything.
5 Giant Eagle decided and
6 voluntarily agreed to this.

7 MR. HARRIS: Okay. I'll
8 rephrase my question.

9 BY MR. HARRIS:

10 Q. Mr. Shaheen, this documents
11 states that Giant Eagle agreed to the
12 Board of Pharmacy saying that they need
13 improve their training, correct?

14 MR. KOBRIN: Object to form.
15 It doesn't say anything that they
16 need to do anything.

17 THE COURT REPORTER: If you
18 could keep your voice up, Josh.

19 MR. KOBRIN: Sorry. Object
20 to form. It doesn't say anything
21 that they need to do anything.

22 THE WITNESS: I don't -- I
23 don't see that.

24 BY MR. HARRIS:

1 Q. This document, Paragraph 4,
2 this is an agreement by Giant Eagle in
3 which Giant Eagle agrees to continue
4 training staff, correct? 4A, "Continue
5 training staff in best practices,"
6 correct?

7 A. 4A, yes.

8 Q. 4B, continue training
9 pharmacy staff on the company's
10 controlled substance dispensing
11 guidelines, correct?

12 A. Correct.

13 MR. KOBRIN: Objection to
14 form.

15 THE WITNESS: Yeah, it
16 says -- yeah.

17 BY MR. HARRIS:

18 Q. 4C, "Continue to evaluate
19 and monitor the pharmacy's physical
20 theft/loss prevention measures," correct?

21 A. Yes.

22 Q. 4D, "Giant Eagle agreed to
23 require Giant Eagle Pharmacy 6501
24 pharmacists to complete and/or repeat DEA

1 continuing education on controlled
2 substances," correct?

3 A. Correct.

4 Q. Okay. Now, Giant Eagle,
5 their reporting policies, their
6 monitoring policies, these proactive
7 investigations that you've talked about,
8 were those consistent throughout the
9 Giant Eagle pharmacies, or did they vary
10 by pharmacy?

11 MR. KOBRIN: Object to form.
12 Vague.

13 THE WITNESS: No.
14 Consistent throughout.

15 BY MR. HARRIS:

16 Q. And that's not necessarily
17 consistent throughout all the Ohio
18 pharmacies, but consistent throughout all
19 the Giant Eagle pharmacies across the
20 states we discussed earlier?

21 MR. KOBRIN: Object to form.
22 Vague.

23 THE WITNESS: Consistent
24 throughout all the states.

1 BY MR. HARRIS:

2 Q. Okay. Are there any
3 policies that are either state or store
4 specific that Giant Eagle implements that
5 you can think of sitting here today?

6 A. Can you explain a little
7 more, please?

8 Q. Sure. There's different
9 policies for completing -- strike that.

10 There's a policy for
11 completing the perpetual log immediately
12 after a prescriber, correct?

13 A. Correct.

14 Q. Okay. There's a policy that
15 all pharmacists must comply with the
16 perpetual log instructions, correct? Do
17 you remember looking at that?

18 A. Yes.

19 Q. Okay. Policies such as
20 those, are those store-specific, or do
21 they apply to every Giant Eagle pharmacy?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: If it's a
24 policy, it would apply to all

1 stores.

2 MR. HARRIS: Thank you.

3 I think this is a good spot
4 to stop and take a quick break if
5 you'd like to. Is that okay with
6 you, Mr. Shaheen?

7 THE WITNESS: Yes.

8 MR. KOBRIN: How much time
9 do you have left about, Josh? Do
10 you have a sense?

11 MR. HARRIS: I want to check
12 my notes. So let me give you an
13 answer off the record before we
14 come back, but I don't suspect
15 long.

16 MR. KOBRIN: That's
17 understandable. Ten minutes?
18 Five minutes? What do you want?

19 MR. HARRIS: I'd probably do
20 five unless people need more. So
21 I'm inclined to keep moving if we
22 can, but happy to -- happy to
23 accommodate anyone.

24 MR. KOBRIN: I just don't

1 think we'll do five.

2 MR. HARRIS: Okay. Let's
3 call it ten. Let's shoot for ten.
4 So we'll go off the record.

5 MR. KOBRIN: Thank you.

6 THE VIDEOGRAPHER: Going off
7 record. The time is 4:47.

8 (Short break.)

9 THE VIDEOGRAPHER: We are
10 going back on record. The time is
11 5:08.

12 BY MR. HARRIS:

13 Q. Okay. Mr. Shaheen, we're
14 back from our break. Do you understand
15 that you're still under oath?

16 A. Yes, I do.

17 Q. Okay. Thank you, sir.

18 Let's go ahead and turn to
19 Tab 25 of the binder we provided you.

20 MR. HARRIS: This is going
21 to be P-HBC-1296. And I believe
22 this is going to be Shaheen-21.

23 (Document marked for
24 identification as Exhibit

1 Shaheen-21.)

2 BY MR. HARRIS:

3 Q. This is an e-mail from you.

4 We'll go through parts of it.

5 Were you able to find it,

6 Mr. Shaheen?

7 A. Yes.

8 Q. All right. Let's start at
9 the top and get oriented. This is an
10 e-mail from you, Richard Shaheen,
11 July 3rd, 2019, right?

12 A. Yes.

13 Q. To Reid Fleming, Mike
14 Leighlitner, and Andrew Gaus, correct?

15 A. Yes.

16 Q. Subject, 2019
17 accomplishments. And then it starts off
18 reading, "As per your request, here are
19 some of our high points directly
20 affecting Giant Eagle for 2019."

21 Is that right?

22 A. Yes.

23 Q. Now, from -- cutting that
24 first sentence into two, was this

1 directed towards Reid Fleming?

2 A. Yes.

3 Q. Okay. Who is Reid Fleming?

4 A. He was our former director
5 of loss prevention.

6 Q. You said former. He is no
7 longer with the company?

8 A. He retired.

9 Q. Okay. Congratulations to
10 him.

11 All right. Let's look at
12 the second paragraph. Sorry, third
13 paragraph. "15,000 pharmacy tech cash
14 theft case. Agreement made with tech and
15 she paid back \$8,000."

16 Do you see that?

17 A. Yes.

18 Q. Let's go down to the next
19 paragraph. "We are continuing to work
20 with and assist the joint state and
21 federal case involving the fraudulent
22 promethazine with codeine prescriptions.
23 Numerous arrests were made as a result of
24 our pharmacy teams that were coached on

1 how to exercise their due diligence."

2 Correct?

3 A. Correct.

4 Q. Okay. So you obviously
5 included that because you believe it's a
6 plus?

7 A. Yes.

8 Q. Okay. Let's go down to the
9 second-to-last paragraph. This says, "A
10 drug ring involving multiple individuals
11 were arrested in our parking lot for
12 selling their Percocet. They would
13 purchase the medication at our pharmacy
14 and the" -- it says the, but I believe it
15 means then -- meet up with others to sell
16 their pills."

17 Did I read that properly?

18 A. Yes.

19 Q. So this is acknowledging
20 that a drug ring was able to establish
21 themselves outside a parking lot for one
22 of Giant Eagle's pharmacies; is that
23 right?

24 MR. KOBRIN: Object to form.

1 THE WITNESS: I believe it
2 was three -- three or four family
3 members.

4 BY MR. HARRIS:

5 Q. What do you mean by family
6 members?

7 A. The -- when you're referring
8 to the ring. That was a 70-year-old
9 female and her family that was involved
10 with that.

11 Q. Okay. But just to be clear,
12 when you say "when they refer to the
13 ring," it's actually when you refer to
14 the ring, right? You typed this e-mail?

15 A. Yes, I did. That's me.
16 Mm-hmm.

17 Q. Okay. And you referred to
18 it as, "A drug ring involving multiple
19 individuals were arrested in our parking
20 lot for selling their Percocet."

21 That's what that says right
22 there, right?

23 A. Yes.

24 Q. Okay. Can you tell the jury

1 how long that had been going on before
2 Giant Eagle noticed it?

3 A. I don't know how long that
4 went on. I don't have those records.

5 When we did discover this
6 was happening, we contacted the Grain --
7 Grainage police department down there,
8 and their drug task force took over the
9 case.

10 Q. Mr. Shaheen, is the fact
11 that a drug ring was able to establish
12 themselves outside of a Giant Eagle
13 pharmacy another instance of Giant Eagle
14 going above and beyond to prevent the
15 diversion of opioids?

16 MR. KOBRIN: Object to form.

17 And just for the sake of time,
18 there's nothing about a drug ring
19 establishing itself there. It
20 just says that they were involved
21 and they would use the parking
22 lot.

23 BY MR. HARRIS:

24 Q. Mr. Shaheen, do you

1 understand my question?

2 A. Yes. They -- they --

3 exactly. That's what these

4 individuals -- this individual was doing.

5 I'm sorry. That's my dog.

6 The individual would

7 purchase the medication and then go out

8 into the parking lot. And what I said to

9 you earlier was family members, so she

10 was driven by either a daughter and/or

11 her son. That's what would happen out in

12 the parking lot.

13 And the minute we discovered

14 that, we went ahead and contacted the

15 local police who, with the sheriff and

16 others, started their investigation. And

17 that's what ended up happening. We

18 stopped the action. She was arrested.

19 Q. So you had a reactive

20 investigation to finding out there were

21 as a drug ring involving multiple

22 individuals who were selling their

23 Percocet in a Giant Eagle pharmacy

24 parking lot?

1 MR. KOBRIN: Object to form.

2 THE WITNESS: I don't

3 remember how this case ended up

4 starting. I don't know if it was

5 alerted to us by one of our

6 pharmacists, which I believe it

7 was. And then at that point

8 that's when we took over the case

9 and, you know, started to spin

10 some camera -- video that is, and

11 then got law enforcement

12 involvement.

13 So that's the proactive

14 portion.

15 BY MR. HARRIS:

16 Q. Now, Mr. Shaheen, today

17 we've gone through a bunch of examples.

18 Some from Trumbull and Lake County, Ohio.

19 Do you remember going through those

20 documents earlier today?

21 A. Yes. We went through some

22 of those county documents.

23 Q. Okay. Then we looked at

24 some from counties outside Trumbull and

1 Lake County, some of the Board of
2 Pharmacy documents.

3 Do you remember looking at
4 those?

5 A. Correct.

6 Q. Okay. And you also
7 testified that, you know, there's certain
8 indicators that could indicate potential
9 diversion. Remember testifying to that?

10 A. Yes.

11 Q. Those would be theft of
12 controlled substances, right?

13 A. Yes.

14 Q. And we saw some documents
15 where pharmacists and pharmacist techs
16 did in fact steal controlled substances;
17 am I right?

18 A. Yes.

19 Q. Okay. You testified that
20 overprescribing opioids could be a
21 potential indicator of diversion.

22 Do you remember that?

23 A. Potential, yes. Mm-hmm.

24 Q. Do you remember that we

1 looked at documents that indicated that
2 there were -- excuse me, that there were
3 controlled substances that were
4 overprescribed? Do you remember looking
5 at those?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: Yes.

8 BY MR. HARRIS:

9 Q. Okay. And those were
10 overprescribed by Giant Eagle
11 pharmacists, correct?

12 MR. KOBRIN: Can you tell me
13 what documents you are talking
14 about, Josh?

15 MR. HARRIS: If you look at
16 Shaheen-13, Tab 29.

17 MR. KOBRIN: Objection. I
18 think that misrepresents the
19 evidence.

20 BY MR. HARRIS:

21 Q. It says here, "Norco 10 was
22 filled Tuesday evening by leader Sarah,
23 and yesterday Brent, registered
24 pharmacist, believed they were short 30.

1 Reviewed video and believes we dispensed
2 120 instead of 90."

3 Do you see where it says
4 that?

5 A. Yes.

6 Q. Okay. So do you remember
7 talking earlier today about at least a
8 claim, at bare minimum, of a Giant Eagle
9 pharmacist overprescribing, based on this
10 document?

11 MR. KOBRIN: Object to form.
12 There's nothing about
13 overprescribing.

14 THE WITNESS: No, nothing
15 about -- yeah.

16 BY MR. HARRIS:

17 Q. Okay. So you're saying this
18 is not indicative of overprescribing?

19 A. No. She doesn't prescribe.

20 Q. Okay. Excuse me. Okay. I
21 understand. I'm using the improper
22 terminology. Let me -- let me back it up
23 and I'll strike the last question.
24 You're right. I appreciate that.

1 MR. KOBRIN: The last five
2 questions -- because I actually --
3 you know, I'm not sure if I
4 objected to all of them. But I
5 wasn't sure what you were talking
6 with overprescribing.

7 MR. HARRIS: That is -- that
8 is fair. The pharmacists here
9 were not the ones technically
10 prescribing. So let me -- I
11 forget what questions they are. I
12 don't -- I want to strike any of
13 those.

14 BY MR. HARRIS:

15 Q. Let me ask -- let me ask it
16 this way, Mr. Shaheen.

17 Is overfilling -- do you
18 remember testifying earlier and agreeing
19 that overfilling prescriptions is a
20 potential for diversion, correct?

21 A. Correct.

22 Q. Okay. And you remember
23 looking at documents that indicate a
24 potential overfilling of prescriptions?

1 A. Yes.

2 Q. And if you recall, Pharmacy
3 4056 was in Trumbull County.

4 Do you remember that?

5 A. Yes.

6 MR. HARRIS: Okay. We can
7 take that one down. Thank you.
8 And I apologize for that
9 confusion.

10 BY MR. HARRIS:

11 Q. Do you remember talking
12 about not conducting proper due diligence
13 is a potential for diversion, correct?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Potential,
16 yes.

17 BY MR. HARRIS:

18 Q. Okay. Do you remember
19 looking at documents saying that logs
20 were not being filled out or audits were
21 not being complete in the counties we've
22 looked at today by Giant Eagle
23 pharmacists?

24 A. Yes.

1 Q. Okay. Do you remember -- do
2 you remember testifying that losing
3 controlled substances, including opioids,
4 can potentially lead to diversion?

5 A. Potentially.

6 Q. Okay. Do you remember
7 looking at documents where there were
8 lost controlled substances, including
9 opioids, today?

10 MR. KOBRIN: Object to form
11 as to "lost."

12 THE WITNESS: Yes.

13 BY MR. HARRIS:

14 Q. Giant Eagle, it should be a
15 priority to prevent the diversion of
16 opioids. Do you agree with that
17 statement, Mr. Shaheen?

18 A. Yes.

19 Q. And, in fact, they're
20 legally required to as a prescriber of
21 opioids, aren't they?

22 MR. KOBRIN: Object to form.

23 Seeks a legal conclusion. It
24 misrepresents the facts in

1 evidence.

2 THE WITNESS: Can you please
3 state it again?

4 BY MR. HARRIS:

5 Q. Sure. Do you agree that
6 Giant Eagle, under federal and state law,
7 is required to prevent the diversion of
8 opioids?

9 MR. KOBRIN: Object to form.
10 Legal conclusion.

11 THE WITNESS: We have an
12 obligation, yes.

13 BY MR. HARRIS:

14 Q. Do you agree that's an
15 important obligation?

16 MR. KOBRIN: Same objection.

17 THE WITNESS: Yes.

18 BY MR. HARRIS:

19 Q. Okay. Do you agree it's
20 important to keep prescription drugs,
21 including opioids, out of our
22 communities, correct?

23 A. Correct.

24 Q. Do you believe it's

1 important to keep prescription drugs,
2 including opioids, out of the hands of
3 our children; isn't that correct?

4 MR. KOBRIN: Object to form.

5 Is there medications -- I don't
6 know that you want to --

7 THE COURT REPORTER: I
8 can't --

9 BY MR. HARRIS:

10 Q. Let me ask the question, Mr.
11 Shaheen.

12 THE COURT REPORTER: I can't
13 hear you.

14 BY MR. HARRIS:

15 Q. You would agree it's
16 important to prevent diversion of
17 prescription drugs, including opioids, to
18 our communities, correct?

19 A. Correct.

20 Q. You would agree it's
21 important to prevent the diversion of
22 prescription drugs, including opioids, to
23 our children in our communities; isn't
24 that correct?

1 A. Correct.

2 Q. Because as we looked at
3 earlier, children are getting their hands
4 on prescription drugs; isn't that right?

5 MR. KOBRIN: Object to form.
6 Lacks foundation.

7 BY MR. HARRIS:

8 Q. That's what you said in
9 2012, right, Mr. Shaheen, that children
10 were able to get their hands on
11 prescription drugs, including opioids,
12 right?

13 A. Correct.

14 Q. Do you agree that opioids
15 specifically are highly addictive?

16 MR. KOBRIN: Object to form.
17 Seeks expert testimony.

18 THE WITNESS: Opioids can be
19 addictive.

20 BY MR. HARRIS:

21 Q. And do you agree that opioid
22 prescription -- prescription opioid --
23 strike that.

24 Do you agree that

1 prescription opioid use can lead to
2 illicit heroin use?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: It's possible,
5 yes.

6 BY MR. HARRIS:

7 Q. So for a company like Giant
8 Eagle who both distributes and dispenses
9 prescription drugs, including the opioids
10 that we've been discussing today,
11 wouldn't you agree that it's important to
12 spend some time on the policies and
13 procedures to help prevent the diversion
14 of opioids?

15 A. Spend some time, are you --
16 I guess --

17 Q. I can rephrase it if you'd
18 like.

19 A. Yes. Could you, please?

20 Q. Yes, absolutely.

21 So for a company like Giant
22 Eagle who both distributes and dispenses
23 prescription drugs, including opioids,
24 that we've been discussing here today,

1 wouldn't you agree that it's important to
2 spend some time training and educating
3 Giant Eagle employees on policies and
4 procedures that can be used to prevent
5 the diversion of prescription drugs and
6 opioids?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: Giant Eagle
9 has policies and procedures in
10 place in addition to the
11 pharmacists doing constant
12 training as required by the law
13 for, you know, continuing
14 education.

15 So I believe that is already
16 actively happening.

17 BY MR. HARRIS:

18 Q. Well, the continuing
19 education requirement as you just
20 mentioned is imposed by law, correct?

21 A. Is what?

22 Q. Is imposed by law, I believe
23 is what you said, or required by law?

24 A. Yes.

1 Q. Okay. So Giant Eagle is not
2 the law. They're not the ones requiring
3 those continuing education, correct?

4 A. Correct.

5 Q. You said they have policies
6 and procedures in place, Giant Eagle
7 does, but you don't remember when the
8 suspicious order monitoring system was
9 activated, correct?

10 A. I don't know that.

11 Q. Okay. But my question to
12 you -- and I acknowledge that your
13 testimony is that they do have policies
14 and procedures.

15 My question is, don't you
16 agree for a company like Giant Eagle,
17 isn't it important to spend time
18 educating and training people on those
19 policies and procedures?

20 MR. KOBRIN: Objection.

21 Asked and answered.

22 THE WITNESS: I -- we have
23 those policies and procedures.

24 And that's what it's utilized for.

1 BY MR. HARRIS:

2 Q. Okay. Let's look at one
3 final document, Mr. Shaheen. Let's go
4 ahead and flip to Tab 13.

5 MR. HARRIS: This is going
6 to be P-HBC-1281.

7 (Document marked for
8 identification as Exhibit
9 Shaheen-22.)

10 BY MR. HARRIS:

11 Q. All right. The top one is
12 an e-mail from you. But let's go ahead
13 and look at the bottom e-mail. It's
14 fairly short, so we'll just go through it
15 together if that's okay with you, sir.

16 A. Yes.

17 Q. Okay. It's from Sara
18 Dannhardt. It's dated June 6, 2019, so
19 more recent than some of the documents
20 that we've looked at.

21 It says, "Subject: Response
22 requested: Quarterly team leader call
23 topics."

24 Do you see that in the

1 bottom?

2 A. Yes.

3 Q. You see about maybe middle
4 of the way, that you're on this e-mail,
5 Richard Shaheen.

6 Do you see your name?

7 A. Yes.

8 Q. All right. Ms. Dannhardt
9 writes, "Good morning. The quarterly
10 team leader call has been scheduled for
11 Monday, June 17th from 8:00 a.m. to
12 9:00 a.m. Please provide the topics
13 you'd like to present on by" -- excuse
14 me. "Please present the topics that you
15 would like to present by end of day
16 tomorrow, if possible."

17 Do you see that?

18 A. Yes.

19 Q. All right. Let's go to the
20 top. Let's see what you responded with.
21 After everything that we've talked about,
22 your e-mail from Richard Shaheen June 6,
23 2019.

24 Do you see that date?

1 A. I do.

2 MR. HARRIS: All right.

3 Let's highlight this, please.

4 BY MR. HARRIS:

5 Q. It says, "Hi, Sara. I would

6 like to speak about corresponding

7 responsibility and due diligence."

8 Do you see that?

9 A. I do.

10 Q. The next line says, "I only

11 need five minutes for my segment."

12 Do you see that?

13 A. Mm-hmm.

14 Q. That's a yes?

15 A. Yes. I'm sorry.

16 Q. Okay. So in 2019, after

17 having been with the company for about

18 six years, you wrote in this e-mail -- it

19 states, "I only need five minutes for my

20 segment," that segment being

21 corresponding responsibility and due

22 diligence; is that correct?

23 A. Correct.

24 MR. HARRIS: Thank you.

1 Mr. Shaheen, that concludes my
2 questions. I'm not sure if your
3 counsel has any.

4 You know, I may have some
5 follow-up if he does. But I
6 appreciate your time and your
7 patience today.

8 In the event that he
9 doesn't, you know, thank you for
10 taking the time to answer my
11 questions today.

12 THE WITNESS: Thank you,
13 Mr. Harris.

14 MR. HARRIS: Absolutely.

15 - - -

16 EXAMINATION

17 - - -

18 BY MR. KOBRIN:

19 Q. How are you doing, Rick? I
20 do have some questions. Do you want to
21 take a break, Rick, or do you want to --

22 A. No.

23 Q. I know you have a headache.
24 You sure you're okay?

1 A. They're painting and
2 plastering in the house. And the smell
3 is just -- it gets to you.

4 Q. That's it. Do you want to
5 take a break and get some water or an
6 aspirin or anything?

7 A. No, I'm good. I've got a
8 little bit of water. I'm good. Let's
9 roll.

10 Q. All right. Let's do this.

11 So we're going to do this a
12 little strangely orderwise. Bear with
13 me, Rick -- Mr. Shaheen, if you will.

14 We're going to do this in a
15 totally different order because they are
16 all bound in the binder. So I'm going to
17 try to go to the tabs and I'm going give
18 the exhibit numbers for the record. But
19 I think it's probably easier if I
20 identify documents by tabs. Is that all
21 right, Mr. Shaheen?

22 A. That's good.

23 Q. All right. So let's start
24 off. The first one that I'd like to talk

1 about is Tab 2, which is Exhibit 19.

2 This is the document, the minutes from
3 the December 5th through 7th, 2011
4 meeting of the Ohio State Board of
5 Pharmacy.

6 Do you see that?

7 A. Yes.

8 Q. Okay. And plaintiffs'
9 counsel asked you about this settlement
10 agreement that is on Page 4, labeled .003
11 of that document, right?

12 A. Yes.

13 Q. Have you ever seen these
14 minutes from Monday, December 5, 2011
15 before today?

16 A. No.

17 Q. You never reviewed this for
18 any of your work at Giant Eagle?

19 A. No.

20 Q. Did you ever -- did you work
21 at Giant Eagle back in 2011?

22 A. No, I didn't.

23 Q. Do you know anything about
24 this case at all regarding Giant Eagle

1 Store 4098?

2 MR. HARRIS: Objection to
3 form.

4 MR. KOBRIN: What's the
5 objection?

6 MR. HARRIS: To form.

7 MR. KOBRIN: What's the form
8 objection?

9 MR. HARRIS: It's vague.

10 BY MR. KOBRIN:

11 Q. Okay. Do you know anything
12 about this settlement agreement with
13 store 4098 and the Ohio Board of
14 Pharmacy?

15 A. No.

16 Q. Do you have any basis of
17 knowledge about this settlement
18 agreement, anything at all?

19 A. No.

20 Q. All right. Thank you.

21 Let's go to Tab Number 3,
22 which is Exhibit 20.

23 Hold on one second.

24 MR. HARRIS: I think you're

1 going the other way, Josh. I
2 think it's Tab 4.

3 MR. KOBRIN: Actually, I was
4 going to change to Tab 4. I was
5 at Tab 3. But strike that. Let's
6 go to Tab 4. You are correct.

7 Lawyers think alike, regardless of
8 whether plaintiffs or defendants.

9 BY MR. KOBRIN:

10 Q. Do you recall plaintiffs'
11 counsel asking you about this
12 November 2nd to 4th, 2009 meeting of the
13 Ohio State Board of Pharmacy?

14 A. Yes.

15 Q. All right. And I believe
16 plaintiffs' counsel asked you about the
17 section regarding Justin Allan Bracken,
18 which is on the 12th page of the
19 document, labeled 0011.

20 Do you recall that?

21 A. Yes.

22 Q. Have you ever seen this
23 document in whole or in part before
24 today?

1 A. No.

2 Q. All right. Do you know
3 anything about this order regarding
4 Justin Allan Bracken?

5 A. No.

6 Q. Did you work at Giant Eagle
7 in November of 2009 when this order came
8 down?

9 A. No.

10 Q. Did you do any work related
11 to this order at that time or any time
12 after?

13 A. No.

14 Q. Do you have any basis
15 whatsoever for any knowledge regarding
16 this order of the Ohio State Board of
17 Pharmacy?

18 MR. HARRIS: Objection to
19 form.

20 THE WITNESS: No.

21 BY MR. KOBRIN:

22 Q. Now, let's go back to Tab 3,
23 which is Exhibit Number 20.

24 Do you recall plaintiffs'

1 counsel asking you about these minutes of
2 the September 11th and 12th, 2017,
3 meeting of the State of Ohio Board of
4 Pharmacy?

5 A. Yes.

6 Q. All right. Plaintiffs'
7 counsel, I believe, asked you about the
8 16th page. It actually starts on the
9 15th page, but the real substance begins
10 on the 16th page, which is labeled .0015
11 at the bottom; is that correct?

12 A. Yes.

13 Q. And this is a settlement
14 agreement with the Ohio State Board of
15 Pharmacy, correct?

16 A. Yes.

17 Q. Mr. Harris asked you about
18 lots of different sentences and whether
19 those sentences were what was written on
20 this page of the settlement agreement.

21 Did he direct you to or ask
22 you anything about related to the drugs
23 at issue in this settlement agreement?

24 A. Not that I recall, no.

1 Q. Do you see anything in this
2 settlement agreement which is -- looks
3 like it's a little over three pages.

4 Do you see anything about
5 the drugs at issue in this settlement
6 agreement?

7 A. Can I have a second to look?

8 Q. Sure.

9 A. No.

10 Q. If you could look with me on
11 the page marked at the bottom 0016. Do
12 you see under the terms, there's a
13 paragraph, numbered Paragraph 3.

14 Do you see that paragraph?

15 A. Yep. I'm there.

16 Q. I want to ask you a separate
17 question. You've worked in law
18 enforcement at the AG's office and you've
19 collaborated with lots of -- worked with
20 and cooperated and assisted law
21 enforcement agencies during your time at
22 Giant Eagle; is that accurate?

23 A. Yes.

24 Q. And during that time, did

1 you have the opportunity to work with
2 lots of different regulatory and law
3 enforcement agencies?

4 A. Yes.

5 Q. During that time, did you --
6 were you able to get a sense of the
7 penalties, monetary and otherwise, that
8 those law enforcement or regulatory
9 agencies impose on organizations or
10 people who in any way, whether
11 purposefully or not, violate regulations
12 or laws?

13 A. Yes.

14 Q. If you see in Paragraph 3,
15 it says that Giant Eagle and the Board
16 agree to monetary penalty in the amount
17 of \$2,500.

18 Do you see that?

19 A. I do.

20 Q. Based on your knowledge of
21 monetary penalties that are imposed by
22 regulatory and law enforcement agencies,
23 do you regard that as a large penalty or
24 small penalty?

1 MR. HARRIS: Objection to
2 form. Improper opinion. Facts
3 not in -- assumes facts not in
4 evidence. Misstates the document.

5 BY MR. KOBRIN:

6 Q. Do you have any opinion --
7 strike that.

8 Do you have any opinion
9 based on your experience with law
10 enforcement or regulatory agencies about
11 the monetary penalty of \$2,500?

12 MR. HARRIS: Objection to
13 form. Calls for an improper
14 opinion.

15 THE WITNESS: That's a small
16 amount.

17 BY MR. KOBRIN:

18 Q. And your belief -- do you
19 have a belief that's a small amount? Is
20 that what you believe based your
21 experience working with regulatory
22 agencies and law enforcement agencies?

23 MR. HARRIS: Objection to
24 form. Calls for an improper

1 opinion.

2 THE WITNESS: I'm basing it
3 on my previous experience mostly,
4 and current experience.

5 BY MR. KOBRIN:

6 Q. What does that \$2,500
7 penalty tell you about how the Board of
8 Pharmacy regards the violation for which
9 it imposed that penalty?

10 MR. HARRIS: Objection to
11 form. Calls for speculation.

12 He's not on the board and
13 cannot testify to their state of
14 mind.

15 BY MR. KOBRIN:

16 Q. I'm asking you, what does
17 that tell you, Mr. Shaheen? What
18 conclusions do you draw, Mr. Shaheen,
19 from that \$2,500 penalty from the State
20 Board of Pharmacy?

21 MR. HARRIS: Same objection.

22 THE WITNESS: Minor or not a
23 severe penalty.

24 BY MR. KOBRIN:

1 Q. All right. Given that you
2 have that belief about a \$2,500 penalty,
3 would you have the same belief about
4 \$1,000 penalty?

5 MR. HARRIS: Objection to
6 form. Improper question.

7 THE WITNESS: I would have
8 the same opinion on \$1,000. It's
9 not a severe penalty. It's
10 actually -- I wouldn't consider
11 that the board has taken high
12 regard to that case.

13 BY MR. KOBRIN:

14 Q. Moving on to Paragraph 4.
15 You may recall that plaintiffs' counsel
16 had you read that Giant Eagle Pharmacy
17 6501 agreed to do the things that are
18 listed there under A, B, C, D, and E
19 under Paragraph 4.

20 Do you see that?

21 A. Yes.

22 Q. Do you see that first
23 sentence of several of those paragraphs,
24 continue training, continue training,

1 continue to evaluate? Do you see that at
2 the bottom of Page 0016?

3 A. Yes.

4 Q. Does it say 'continue' there
5 because Giant Eagle was already doing
6 these things?

7 MR. HARRIS: Objection to
8 form. Calls for speculation.

9 BY MR. KOBRIN:

10 Q. If you know, Mr. Shaheen.
11 Do you know whether it says continue
12 there because Giant Eagle was already
13 doing those things?

14 MR. HARRIS: Object to form.
15 Calls for speculation as to why
16 the Board put that language in
17 there. You restricted me from
18 asking questions because he's not
19 part of the Board and had never
20 seen those. Now, you're
21 attempting to do the same.

22 But go ahead, Mr. Shaheen.

23 MR. KOBRIN: I'm asking
24 whether he knows --

1 THE WITNESS: Yes.

2 MR. KOBRIN: Did Giant Eagle
3 continue --

4 MR. HARRIS: If he knows
5 what the Board of Pharmacy was
6 thinking?

7 Same objection. Go ahead.

8 BY MR. KOBRIN:

9 Q. I don't know. Mr. Shaheen,
10 do you know -- it says continue -- in
11 Paragraph 4, if you look under Paragraph
12 4 it says that Giant Eagle agreed to
13 continue training, continue training,
14 continue to evaluate.

15 They all say continue. Do
16 you know if Giant Eagle was already doing
17 those things?

18 A. Yes, we are.

19 Q. So they were already
20 training staff in best practices; is that
21 right?

22 A. Yes, they were.

23 Q. Were they already
24 continuing -- were they already -- excuse

1 me -- training pharmacy staff on the
2 company's controlled substance dispensing
3 guidelines and other policies and
4 procedures for the filling and dispensing
5 of prescriptions for controlled
6 substances and to the potential --
7 periodically review and revise such
8 policies as appropriate?

9 A. Yes.

10 MR. HARRIS: Objection to
11 form. Vague.

12 BY MR. KOBRIN:

13 Q. And were they already
14 continuing to do the evaluation and
15 monitoring that is listed under
16 Subparagraph C there?

17 A. Yes.

18 Q. In fact, you were deeply
19 involved in Giant Eagle's efforts to
20 evaluate and monitor the pharmacies'
21 physical theft and loss prevention
22 measures, weren't you?

23 MR. HARRIS: Object to form.

24 BY MR. KOBRIN:

1 Q. Were you -- were you
2 intimately involved in the company's
3 efforts to evaluate and monitor the
4 pharmacies' physical theft and loss
5 prevention measures?

6 MR. HARRIS: Same objection.

7 THE WITNESS: Yes, I am.

8 BY MR. KOBRIN:

9 Q. You are.

10 And you know from your
11 personal experience -- rather, strike
12 that.

13 Do you know from your
14 personal experience that they were
15 already evaluating and monitoring
16 physical theft and loss prevention
17 measures?

18 A. Yes, we were.

19 Q. If you turn to Tab 14, which
20 is Exhibit 15. This is an e-mail,
21 Mr. Shaheen, that plaintiffs' counsel
22 asked you about with the subject "LP
23 pharmacy wins fiscal year '18"; is that
24 correct?

1 A. Correct.

2 Q. Do you recall plaintiffs'
3 counsel asking you questions and having
4 you read bullet points from this e-mail
5 that you sent to Mr. Leighlitner?

6 A. Yes.

7 MR. HARRIS: Objection.

8 THE WITNESS: Yes.

9 BY MR. KOBRIN:

10 Q. One of the bullets he had
11 you read was, "80 fake prescription
12 cases."

13 Do you see that?

14 A. Yes.

15 Q. Those 80 fake prescription
16 cases that you classified as pharmacy
17 wins in fiscal year '18, were those
18 prescriptions -- were those fake
19 prescriptions filled?

20 MR. HARRIS: Objection to
21 form.

22 BY MR. KOBRIN:

23 Q. If you know. Were those
24 fake prescriptions filled?

1 Strike that. Let me
2 rephrase.

3 Those 80 fake prescription
4 cases listed in the second bullet, do you
5 recall listing that as a pharmacy win in
6 this e-mail?

7 A. Yes.

8 Q. When you listed that, do you
9 recall the generalities of those 80 fake
10 prescription cases?

11 A. Yes.

12 Q. Were those 80 fake
13 prescription cases, cases where the
14 prescriptions or the drugs for those
15 prescriptions, those fake prescriptions,
16 were dispensed?

17 MR. HARRIS: Objection to
18 form.

19 THE WITNESS: No. In many
20 of those cases we ended up
21 stopping these individuals from
22 filling these prescriptions,
23 having these individuals get
24 arrested.

1 In addition to that, the
2 success that we had from the BOLOs
3 and whatnot, that a lot of those
4 prescriptions were not passed
5 because a pharmacist would shut
6 them down at the counter.

7 So they weren't always
8 arrested. But it was either
9 people were shut down or they
10 ended up getting arrested as we
11 contacted law enforcement.

12 BY MR. KOBRIN:

13 Q. Moving down these bullets,
14 plaintiffs' counsel skipped one of the
15 bullets. So I'd like you to read it if
16 you could. It is the -- one, two, three,
17 four, five -- the sixth bullet is the one
18 plaintiff skipped.

19 Could you read that for me?

20 A. "Continued working
21 partnership with the DEA, AG, FBI, Ohio
22 Board of Pharmacy, local and state
23 police. U.S. attorney and FBI
24 acknowledge our efforts in drug diversion

1 cases."

2 Q. Can you provide any further
3 information on any of those partnerships
4 or that acknowledgment?

5 MR. HARRIS: Objection to
6 form. Vague. Calls for a
7 narrative.

8 BY MR. KOBRIN:

9 Q. Can you, Mr. Shaheen?

10 A. Yes, I can.

11 Q. Would you provide us more
12 information then about the partnerships.

13 MR. HARRIS: Same objection.

14 THE WITNESS: Constantly
15 working hand in hand with the --
16 all three of those agencies that
17 are listed.

18 As we start to develop cases
19 from information that we receive
20 from our pharmacies, we provide
21 that information to the DEA, the
22 AG, FBI, et cetera, Ohio Board.

23 And it's early boots on the
24 ground. So we're very proactive

1 with that.

2 Local municipalities, state
3 police, from time to time we work
4 with them, depending on who has
5 jurisdiction.

6 The U.S. attorney's office,
7 of which I'm a member on this task
8 force that they have, we have
9 worked hand in hand with the FBI.
10 And one of the main cases we did,
11 was out of the Pittsburgh area.

12 The FBI had modeled what we
13 did and provided that to various
14 FBI offices throughout --
15 throughout the country.

16 It was a very successful
17 program that we did with the FBI
18 that led to multiple arrests in
19 that case.

20 So, you know, we got
21 acknowledged by them and the U.S.
22 attorney's office for that effort.

23 BY MR. KOBRIN:

24 Q. When you say the FBI modeled

1 what we did, who is the "we" there?

2 MR. HARRIS: Objection to
3 form.

4 THE WITNESS: Giant Eagle
5 pharmacy investigator, Andrew and
6 myself.

7 BY MR. KOBRIN:

8 Q. What is the -- I believe you
9 said you're a task force for the U.S.
10 attorney's office; is that correct?

11 A. Yes. We're part of that
12 civil healthcare task force.

13 Q. Is that something that you
14 do individually is or is that something
15 that the Giant Eagle is a partner of,
16 with the U.S. attorney's office?

17 A. No. That's -- it is -- I
18 got invited because of my former work as
19 an agent. And you know, there's
20 various -- it's all healthcare
21 investigators from various federal
22 agencies, plus insurance -- insurance --
23 SIU individuals who do investigations on
24 insurance fraud, and then of course the

1 DEA is there.

2 And that's, you know, a good
3 arena for us to share information with
4 them, both what they're giving us and
5 what we give them.

6 Q. So you serve on that task
7 force along with -- as a representative,
8 rather, of Giant Eagle?

9 A. Yes.

10 MR. HARRIS: Objection to
11 form.

12 BY MR. KOBRIN:

13 Q. Do you serve on that that
14 task force as a representative of Giant
15 Eagle or in an individual capacity?

16 A. Yes, on behalf of Giant
17 Eagle.

18 Q. If you could flip to Tab 16,
19 which is Exhibit 8. I believe you saw a
20 couple of these Giant Eagle pharmacies
21 suspected controlled substance loss DEA
22 notification documents.

23 Do you recall looking at
24 these with plaintiffs' counsel?

1 A. Yes.

2 Q. What is a suspected control
3 loss DEA notification?

4 A. We submit these documents to
5 the DEA, Ohio Board, and then our
6 corporate office acknowledging that a
7 product, a controlled substance is either
8 suspected lost, missing, generally at
9 that point.

10 And that is alerting them to
11 the fact that, you know, we've discovered
12 that a product is missing.

13 Q. When do you send this loss
14 notification?

15 MR. HARRIS: Objection to
16 form.

17 THE WITNESS: Generally,
18 it's sent when they discover it.
19 So as soon -- as soon as they
20 realize that it's a suspected
21 loss.

22 BY MR. KOBRIN:

23 Q. At this point, have you even
24 had the chance to investigate the loss,

1 or is this just when you suspect a loss
2 then?

3 MR. HARRIS: Objection to
4 form.

5 THE WITNESS: No. Generally
6 if -- if I receive a phone call or
7 an e-mail, they weren't sure about
8 this, we'll take a quick drive if
9 it's close by.

10 Or if it's wherever, one,
11 either myself, Sam, or Angie will
12 go out and start looking. And at
13 that point in time, by the end of
14 the day, this document goes out
15 within the appropriate time
16 period, if we can't uncover it
17 initially. And then we'll start
18 looking.

19 We'll then also, as I said
20 before, be proactive, start our
21 counts to see if in fact it is
22 diversion or is it a data
23 situation. We'll reach back to
24 our IT people, provide them with

1 that information, look to see what
2 we received, what we dispensed,
3 what we have on hand, try to make
4 that determination if it is data.

5 And then obviously
6 contact -- in this case, it was a
7 board agent, and then contact the
8 board agent and explain to them
9 everything that we're doing.

10 BY MR. KOBRIN:

11 Q. So even after this loss
12 notification has gone out, you continue
13 to work to resolve any missing controlled
14 substances?

15 MR. HARRIS: Objection to
16 form.

17 BY MR. KOBRIN:

18 Q. Even -- strike that.

19 After this loss notification
20 goes out, you continue to research in
21 order to resolve any issues of missing
22 controlled substances; is that right?

23 A. That's correct.

24 Q. And this is Exhibit 16.

1 MR. KOBRIN: Can I just hold
2 on for one second and step away
3 from the computer. Is that okay
4 with you, Josh?

5 MR. HARRIS: Yeah.

6 MR. KOBRIN: I have a noise
7 issue. I don't know if it's
8 affecting you guys or not.

9 MR. HARRIS: I mean, I'm not
10 hearing anything, but you can
11 handle it.

12 BY MR. KOBRIN:

13 Q. Are you on Tab 17?

14 A. Yes. I am now.

15 Q. And if you can at the same
16 time look at Tab 25, which I believe --
17 is it 25?

18 MR. HARRIS: That was
19 Shaheen-21, Josh. At least that's
20 what I noted.

21 MR. KOBRIN: Tab 25 is
22 Shaheen-21?

23 MR. HARRIS: Correct, yeah.

24 THE WITNESS: Which one am I

1 on? 20 -- 17 and what?

2 BY MR. KOBRIN:

3 Q. 17, which is Exhibit 16, and
4 Tab 25, which is Exhibit 21.

5 A. Okay.

6 Q. I actually think we want to
7 look at, I believe, Tab 27, Exhibit 17.
8 Looking at Tab 17 which is Exhibit 16 and
9 Tab 27, which is Exhibit 17.

10 If we look at Exhibit 16, do
11 you remember answering questions about
12 this BOLO at Exhibit 16?

13 A. You're talking Tab 17
14 though? That's what I --

15 Q. Exactly. And thank you very
16 much. They put them both up side by
17 side. I'm not sure if you can see that
18 well enough on your screen. But you can
19 at least know which one we're looking at.
20 We're looking at the one on the left,
21 which is the BOLO.

22 What does BOLO stand for?

23 A. Being on the lookout.

24 Q. And you send these out when

1 you get a lead from a pharmacy? What
2 makes you send this out?

3 A. Exactly that. When a
4 pharmacist -- if a pharmacist contacts me
5 or if we get something via law
6 enforcement, I will immediately put out a
7 BOLO to alert. Sometimes it's just a
8 local with this -- you know, if we hear
9 that it's happening in Cleveland, I'll
10 send it to those three PDLs in that area
11 which encompasses -- you know, I don't
12 know, 90, 100 stores in that greater
13 Cleveland area.

14 Q. When you said in this BOLO,
15 "This ring is having success passing this
16 forgery," did you mean that they were
17 having success passing the forgery and
18 getting it dispensed at Giant Eagle
19 pharmacies?

20 A. No.

21 MR. HARRIS: Object to form.

22 THE WITNESS: No. No, I
23 didn't -- no, I didn't mean that.
24 They were having success

1 throughout their area wherever
2 they were -- wherever they were
3 going. The information came to
4 us, and I kicked out this BOLO.

5 BY MR. KOBRIN:

6 Q. Okay. Now, if we can look
7 at Exhibit 17, which plaintiffs' counsel
8 asked you about, which is behind Tab 27.
9 It's Exhibit 17. This is the pharmacy
10 hot sheet.

11 A. Yes.

12 Q. It says, "Cleveland Clinic
13 script passed at two of our pharmacies in
14 Ohio." And I think you explained this a
15 little bit to plaintiffs' counsel. But
16 he -- he moved to strike some of it.

17 What does it mean when you
18 say a Cleveland Clinic script is passed
19 at two of our pharmacies? Does that mean
20 that it was dispensed?

21 A. No, it doesn't mean that it
22 was dispensed.

23 As I said before, if a
24 script comes in and it gets dropped, and

1 then they do their due diligence, then
2 the script would get either -- sometimes
3 kept by the pharmacy, but if the
4 individual demands the script back, they
5 would give the script back.

6 Q. Can you turn to Tab 28 which
7 is Exhibit 10?

8 Can you turn to the third
9 page here, where you have your original
10 notes.

11 A. Okay.

12 Q. What did you have to do to
13 fill out these notes? What is this?

14 MR. HARRIS: Objection to
15 form.

16 THE WITNESS: Can you ask it
17 again, please?

18 BY MR. KOBRIN:

19 Q. What are these notes
20 memorializing? What are you doing here?

21 MR. HARRIS: Objection to
22 form.

23 BY MR. KOBRIN:

24 Q. What are you recording?

1 A. I went to the store and I
2 started the spin cam review camera trying
3 to follow what had transpired with this
4 bottle. And the times would be set up
5 here so that I knew when I put it on the
6 disc or whatever I retained it to,
7 whether it was a flash drive, that I had
8 the times that I can incorporate either
9 on a CD or a flash drive, and then the
10 events, how they happened, like a
11 timestamp.

12 Q. You would just sit and watch
13 the video? Is that what this is
14 representing -- or strike that.

15 Is this representing you
16 watching the video and what you saw?

17 A. Yes.

18 Q. You say -- it looks like you
19 started watching the video -- sorry. Go
20 ahead. Finish.

21 A. You know, you see at 12:30,
22 bottle thrown out.

23 And then I had to go all the
24 way -- all the way down from 12:30 to

1 3:41, and then because the garbage was
2 getting filled. And then I saw either --
3 generally it's a technician -- but a
4 technician take the garbage out to the
5 compactor, and then it was discarded --
6 it was discarded at that point in time.

7 Q. After you saw that the
8 bottle wasn't stolen, wasn't, you know,
9 abused by a team member, wasn't hidden or
10 something, after you saw that it was
11 thrown out inadvertently, why did you
12 continue to follow the video until it
13 went out to the compactor?

14 MR. HARRIS: Objection to
15 form.

16 THE WITNESS: Well, I -- I
17 tried to follow as far as we can.
18 If, our cameras from the pharmacy
19 into the grocery, if we can do a
20 path of travel, then that way, if
21 I get questioned or we get
22 questioned by the Ohio Board or
23 the DEA as to, you know, what was
24 the final outcome, we try to

1 follow it all the way to make sure
2 that it was not diverted.

3 BY MR. KOBRIN:

4 Q. So this way you can make
5 sure that nobody abused the drugs that
6 were inadvertently thrown out at 12:30?

7 MR. HARRIS: Objection to
8 form.

9 BY MR. KOBRIN:

10 Q. Is this so that you can
11 confirm that no one abused or had the
12 opportunity to abuse the drugs that were
13 inadvertently thrown out at 12:30?

14 MR. HARRIS: Objection to
15 form.

16 THE WITNESS: Correct.

17 BY MR. KOBRIN:

18 Q. Correct what?

19 A. Yeah. No -- there was --
20 the bottle was not diverted. The bottle
21 was inadvertently thrown out, and it went
22 into the garbage, then into the
23 compactor.

24 Q. So what are you trying to

1 confirm by tracing the bottle all the way
2 to the compactor?

3 MR. HARRIS: Objection to
4 form.

5 THE WITNESS: I'm confirming
6 that there was no diversion
7 involved. There was no intent to
8 steal any product from Giant
9 Eagle.

10 And the bottle, in fact --
11 so when we completed our DEA 106,
12 that -- that we have a record on
13 what happened and we're -- because
14 we're accountable for these
15 medications -- what happened to
16 that bottle that day.

17 BY MR. KOBRIN:

18 Q. Go to Tab 29 for me, which
19 is Exhibit 13. Actually, no, let's skip
20 that one for now.

21 Let's go to tab -- strike
22 that.

23 Let's go to Tab 33.

24 A. 33, you said?

1 Q. 33. Which is Exhibit 3, so
2 this is from this morning.

3 A. Okay.

4 Q. Do you recall plaintiffs'
5 counsel asking you about -- asking you
6 questions about this presentation,
7 Mr. Shaheen?

8 A. Yes.

9 Q. And plaintiffs' counsel
10 represented to you that the date of this
11 presentation was around January of 2015;
12 is that right?

13 A. Yes.

14 Q. Could you turn to the page
15 in the presentation with the header
16 "Perpetual Log."

17 Based on this page and the
18 time of the presentation, do you have a
19 sense to whom you were presenting this
20 PowerPoint presentation in 2015?

21 A. This PowerPoint was
22 presented to pharmacists who were looking
23 to become pharmacy leaders. In other
24 words, from a staff pharmacist to a

1 manager.

2 Q. Were they in any particular
3 region or were they all pharmacists who
4 were looking to become team leaders?

5 A. I think -- one day I
6 think -- I don't know exactly where all
7 the pharmacists were from.

8 But, you know, I think I did
9 it twice. There was two small groups of
10 pharmacists.

11 Q. All right. So this wasn't a
12 companywide presentation?

13 MR. HARRIS: Objection to
14 form. Assumes facts not in
15 evidence.

16 BY MR. KOBRIN:

17 Q. Was it a companywide
18 presentation or was this a presentation
19 made to a small group?

20 A. This was a --

21 MR. HARRIS: Objection to
22 form.

23 BY MR. KOBRIN:

24 Q. Go ahead.

1 A. This was a presentation for
2 a small group.

3 Q. You later testified about
4 why you liked the perpetual log. Do you
5 recall that, Mr. Shaheen?

6 A. Yes.

7 Q. And you were encouraging
8 them to expand the perpetual log from
9 what you termed as POD to the Ohio
10 pharmacies. Do you recall testifying
11 about that?

12 A. Yes.

13 Q. Okay. And what is the POD?

14 A. That's the Pittsburgh region
15 of Giant Eagle. So it's like
16 Pennsylvania, Erie, down to Pittsburgh,
17 across to Altoona.

18 Q. And you encouraged them to
19 do the perpetual log for consistency in
20 Ohio because it was already being enacted
21 as a procedure in western PA.

22 Do you recall that
23 testimony?

24 MR. HARRIS: Objection to

1 form. Misstates testimony and
2 documents.

3 BY MR. KOBRIN:

4 Q. Do you recall encouraging
5 people within the company to expand the
6 perpetual log procedure to Ohio?

7 MR. HARRIS: Same objection.
8 Apologize. Same objection.

9 THE WITNESS: Yes, I do
10 recall.

11 BY MR. KOBRIN:

12 Q. Can you explain what the
13 perpetual log was?

14 A. The perpetual log was -- you
15 have an NDC for a particular drug. You
16 listed how many you had on it, meaning
17 the quantity that you currently had. You
18 did a fill -- so if you had 500, and now
19 you have a prescription for 100, it's a
20 calculation to be used when you take your
21 100 out of the 400, now you have 300.

22 And it's an ongoing
23 representation that lists the
24 prescription number and the quantity

1 dispensed and so on and so forth, that --
2 what would give us more of a lifetime --
3 if there was something that happened
4 between fills, it would minimize that
5 time that I had to look at video in
6 addition to keep an accurate depiction of
7 what they had in the safe for that
8 particular product.

9 Q. Were there other safeguards
10 in addition to the perpetual log at Giant
11 Eagle pharmacies to keep track of
12 inventory?

13 MR. HARRIS: Objection to
14 form.

15 THE WITNESS: Yes. We
16 had -- we have a monthly narcotic
17 audit that we do. And that's
18 hands down across the chain. It
19 was in existence before I came. I
20 don't know when they started that.

21 We had that. Of course, the
22 perpetual log.

23 And even before -- even
24 before a lot of the Ohio stores --

1 and again, I don't know definites,
2 but Ohio stores, some of them
3 had -- when I visited the stores,
4 and I can remember Columbus. But
5 when I visited the stores, they
6 had a perpetual log already -- it
7 wasn't my doing -- that they
8 initiated, whether they came from
9 a different chain or not.

10 Some of the pharmacies
11 already had something like that in
12 place.

13 BY MR. KOBRIN:

14 Q. Were there other audit
15 controls at all? Other than you
16 mentioned a monthly audit and a perpetual
17 log, were there other controls in place
18 to keep a tab on inventory, particularly
19 controlled substances?

20 MR. HARRIS: Objection to
21 form.

22 THE WITNESS: You know,
23 we -- PDLs conducted audits. I'm
24 trying to think of the other --

1 the electronic perpetual log that
2 we have, and it's a live basis
3 right now. In other words, you
4 don't have to use pen and paper
5 anymore.

6 The minute that you start --
7 it interacts with our filling
8 program, EPS, PDX, it interacts
9 with that, that when a
10 prescription is filled for a
11 particular controlled substance,
12 Schedule IIs, it will -- it will
13 automatically have that number
14 that posts when they do their back
15 count.

16 And so the pharmacist then
17 will complete their back count, go
18 into the safe, look to see what
19 else they have in the safe, and
20 match that number with the live
21 number that's on the software
22 program.

23 BY MR. KOBRIN:

24 Q. Do me a favor and turn to

1 Tab 71, which is Exhibit 11.

2 A. Okay.

3 Q. Do you remember reading this
4 e-mail from Christopher Miller to you
5 during plaintiffs' counsel's examination?

6 A. Yes.

7 Q. And this is about
8 notification that a nurse had been fired
9 who worked at a community care center and
10 was able to write fraudulent
11 prescriptions; is that correct?

12 MR. HARRIS: Objection to
13 form.

14 THE WITNESS: Correct.

15 BY MR. KOBRIN:

16 Q. Plaintiffs' counsel had you
17 read several portions of the e-mail, but
18 he skipped the last sentence of the first
19 paragraph. Could you read that into the
20 record as well?

21 A. "Laura DeJulia said the" --

22 Q. No, no, no. The last
23 sentence of the first paragraph,
24 Mr. Shaheen. He had you read everything

1 about the call from the community care
2 center. He had you read about the nurse
3 who had been writing fraudulent
4 prescriptions, correct?

5 A. Correct.

6 Q. Do you remember that?

7 A. Yes.

8 Q. He didn't have you read the
9 last sentence of that first paragraph.
10 And that's what I'd like you to add in
11 order to complete the record regarding
12 this e-mail.

13 A. Okay. "Prescriptions" --

14 MR. HARRIS: I'm sorry,
15 Mr. Shaheen. Objection to form.

16 Go ahead.

17 MR. KOBRIN: What's the
18 objection?

19 MR. HARRIS: Misstates the
20 record. The record is complete
21 because this document is in it.
22 And as you stated with many, it
23 can speak for itself.

24 So, go ahead, Mr. Shaheen.

1 BY MR. KOBRIN:

2 Q. I'm going to restate my
3 question real quick.

4 Plaintiffs' counsel had you
5 read over this document. Do you remember
6 that, Mr. Shaheen?

7 A. Yes. Yes.

8 Q. Plaintiffs' counsel didn't
9 have you read the last sentence of the
10 first paragraph; is that correct?

11 A. Correct.

12 Q. Okay. Could you read the
13 last sentence of the first paragraph into
14 the record in order to have that full
15 paragraph in the record, testimony on
16 record?

17 MR. HARRIS: Objection to
18 form.

19 THE WITNESS: Okay.

20 "Prescriptions had all the
21 pertinent information on them
22 because the nurse worked at the
23 facility."

24 BY MR. KOBRIN:

1 Q. What does that mean to you?

2 MR. HARRIS: Objection to

3 form. Sorry.

4 Go ahead, Mr. Shaheen.

5 THE WITNESS: A completed

6 prescription, written

7 appropriately. All the

8 requirements were met.

9 BY MR. KOBRIN:

10 Q. Was this a hard to detect

11 fraud?

12 MR. HARRIS: Objection to

13 form.

14 THE WITNESS: Yes, it would

15 be.

16 BY MR. KOBRIN:

17 Q. How does it make you feel as

18 somebody who worked in law enforcement

19 and now works in loss prevention trying

20 to prevent diversion? How does a story

21 like this make you feel?

22 MR. HARRIS: Objection to

23 form. Outside the scope. Not

24 relevant to anything discussed

1 today or in this litigation.

2 Go ahead, Mr. Shaheen.

3 THE WITNESS: I'm happy to

4 be in the position that I'm in.

5 This is -- it's very upsetting to

6 see people abuse their positions

7 like this. It just -- it keeps

8 driving us.

9 That's why I'm working at it

10 because I understand it from my

11 previous life. I have boots on

12 the ground now. I know I can make

13 a difference. And these are why

14 we put these BOLOs out and we go

15 after these individuals, to

16 prevent -- and hopefully prevent,

17 help make a dent into these

18 individuals who are creating

19 problems, not only for, you know,

20 the doctors, but the pharmacists,

21 because you've got a nurse

22 there -- and sadly now, any

23 prescription that's fraudulent is

24 basically going against the doctor

1 as if he wrote it.

2 BY MR. KOBRIN:

3 Q. You visit these pharmacies
4 sometimes when these events happen --
5 strike that.

6 Mr. Shaheen, do you
7 sometimes visit these pharmacies and have
8 the opportunity to talk to the
9 pharmacists involved in these events when
10 these e-mails about fraudulent
11 prescriptions that people attempt to pass
12 at Giant Eagle pharmacies, do you have a
13 chance to meet with these pharmacists?

14 A. Yes, almost always.

15 Q. Do you get a sense from
16 those meetings as to how those
17 pharmacists feel about those events?

18 MR. HARRIS: Objection to
19 form. Calls for speculation.
20 Absolutely not relevant.

21 THE WITNESS: I can tell you
22 that, you know, they're obviously
23 very, very concerned. They
24 express that concerned to me.

1 You know, they -- they
2 obviously work with law
3 enforcement very well when it
4 comes to these types of things
5 because law enforcement will show
6 up.

7 You know, it really -- it
8 really affects a lot of these
9 pharmacists to the point where,
10 you know, they're very agitated
11 that somebody could have gotten a
12 prescription and actually
13 committed a fraudulent
14 prescription and possibly in some
15 cases medication -- received
16 medication when in fact these
17 people were not entitled to it.

18 MR. KOBRIN: Thank you so
19 much for your time today. I
20 appreciate it, Mr. Shaheen.

21 I pass the witness.

22 MR. HARRIS: Thank you,
23 Mr. Kobrin.

24 - - -

1 EXAMINATION

2 - - -

3 BY MR. HARRIS:

4 Q. Mr. Shaheen, I have just
5 what I would believe to be a short
6 section of follow-up questions. Let's go
7 ahead and address those.

8 In light of everything that
9 you and I talked about today, all the
10 documents you and I looked at and we
11 discussed, do you still believe that
12 Giant Eagle, Giant Eagle pharmacists, and
13 Giant Eagle pharmacist tech -- pharmacy
14 techs, excuse me, go above and beyond to
15 prevent the diversion of opioids?

16 A. Yes, I do believe that.

17 Q. Okay. I do want to follow
18 up on one quick point that you spoke to
19 your attorney about.

20 Remember you were discussing
21 the Board of Pharmacy agreement amount?

22 A. Yes.

23 Q. Okay. You said \$2,500 was
24 not a large amount. Do you remember

1 saying that?

2 MR. KOBRIN: Objection.

3 Misrepresents his testimony.

4 BY MR. HARRIS:

5 Q. Hold on. I certainly don't
6 want to do that. Give me a second. I
7 will pull it up.

8 Okay, Mr. Shaheen. Are you
9 ready?

10 A. Yes, sir.

11 Q. Do you remember when your
12 attorney asked you if you had any opinion
13 on the monetary penalty of \$2,500 -- do
14 you remember when he asked you that?

15 A. Yes.

16 Q. And you said that's a small
17 amount, didn't you?

18 MR. KOBRIN: Object to form.

19 Why don't you just read his
20 testimony if you want to refer
21 back.

22 MR. HARRIS: That's not how
23 I'm going to do this.

24 BY MR. HARRIS:

1 Q. You said \$2,500 was a small
2 amount, didn't you, Mr. Shaheen?

3 MR. KOBRIN: I think he was
4 talking about it being a small
5 amount relative to monetary
6 penalties based on his experience.

7 MR. HARRIS: Mr. Kobrin,
8 please do not instruct your
9 witness while I'm doing my
10 examination. You do not know what
11 he was speaking of. I am asking
12 him.

13 MR. KOBRIN: You're
14 misrepresenting.

15 BY MR. HARRIS:

16 Q. Mr. Shaheen, let me ask my
17 question.

18 When you were asked, "Do you
19 have any opinion based on your experience
20 with law enforcement or regulatory
21 agencies about the monetary penalty of
22 \$2,500?" Your answer was, "That's a
23 small amount," wasn't it?

24 MR. KOBRIN: Objection.

1 THE WITNESS: That was my
2 answer. But in law enforcement
3 and what I did in the
4 Commonwealth, we always used
5 treble punitive damages. And
6 those amounts far superseded that
7 \$2,500. And that's what I'm
8 saying.

9 I'm saying that those
10 amounts were a lot more than
11 \$2,500.

12 MR. HARRIS: Motion to
13 strike as nonresponsive to
14 everything after "Yes, that was my
15 answer."

16 BY MR. HARRIS:

17 Q. Mr. Shaheen, when asked
18 about -- when your attorney asked you,
19 "Given that you have that belief" --
20 meaning it was a small amount -- "about a
21 \$2,500 penalty, would you have the same
22 belief about \$1,000 penalty," you said,
23 "I would have the same opinion on \$1,000.
24 It's not a severe penalty. It's

1 actually -- I wouldn't consider that --
2 that the Board has taken high regard to
3 that case."

4 Do you remember saying that,
5 Mr. Shaheen? Simple yes or no.

6 A. Yes.

7 Q. Okay. My question to you
8 is, since you think \$1,000 and \$2,500 are
9 small amounts and that the Board hasn't
10 taken high regard to that case, based on
11 your answers, is it fair to say that it
12 would take a significantly higher number
13 for you to consider it a severe penalty?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: I would say
16 yes. I would say that a higher
17 dollar -- yes, yes.

18 MR. HARRIS: Thank you. I
19 don't have any more questions.

20 MR. KOBRIN: Do you want to
21 take a break, Rick, are you okay?
22 Can you go for like a couple --
23 three more minutes?

24 THE WITNESS: Yeah, I'm

1 good.

2 - - -

3 EXAMINATION

4 - - -

5 BY MR. KOBRIN:

6 Q. You talked about the
7 penalties amounts being \$2,500 and
8 \$1,000. Were you referring to those
9 being small amounts generally or only
10 with regard to the way -- a regulatory
11 monetary penalty imposed by a government
12 agency?

13 MR. HARRIS: Objection to
14 form. Counsel testifying.
15 Outside the scope of redirect.
16 Leading the witness. Improper
17 question.

18 Go ahead, Mr. Shaheen. He
19 already told you what to say.

20 MR. KOBRIN: I'm very
21 impressed with your ability to
22 make objections, and with ardor.

23 But we're good.

24 MR. HARRIS: Thank you, sir.

1 Go ahead.

2 BY MR. KOBRIN:

3 Q. Mr. Shaheen --

4 A. Okay. Go ahead.

5 Q. Go ahead. I've got all day.

6 When you were discussing the
7 \$2,500 penalty, did you regard it as
8 small generally, or were you regarding it
9 as small in relationship -- strike that.

10 When you were discussing the
11 monetary penalties that the Ohio Board of
12 Pharmacy imposed on Giant Eagle, and you
13 said that you regarded them as small,
14 that was based on your experience, or was
15 that based on a general sense of monetary
16 amounts?

17 A. That was --

18 MR. HARRIS: Objection to
19 form.

20 Excuse me, Mr. Shaheen.

21 Objection to form. Outside the
22 scope. Leading. Counsel
23 testifying.

24 Go ahead.

1 THE WITNESS: That's based
2 on my experience.

3 BY MR. KOBRIN:

4 Q. And that experience is with
5 law enforcement and regulatory agencies;
6 is that accurate?

7 MR. HARRIS: Same
8 objections.

9 BY MR. KOBRIN:

10 Q. Is that experience with law
11 enforcement, Mr. Shaheen?

12 A. I'm sorry. Could you
13 please --

14 MR. HARRIS: Same objection.

15 BY MR. KOBRIN:

16 Q. Is that experience on which
17 you base that assessment based on your
18 experience with law enforcement
19 penalties?

20 A. Yes.

21 MR. HARRIS: Objection.
22 Outside the scope.

23 BY MR. KOBRIN:

24 Q. And is that experience based

1 on your -- is that assessment -- strike
2 that.

3 Is that assessment based on
4 your experience with regulatory agency
5 penalties?

6 MR. HARRIS: Objection.

7 Outside the scope.

8 BY MR. KOBRIN:

9 Q. I think he stepped on your
10 answer there, Mr. Shaheen. Could you
11 answer that part again?

12 MR. HARRIS: I didn't step.

13 I was objecting. Thank you.

14 THE WITNESS: Yes.

15 BY MR. KOBRIN:

16 Q. And those are penalties that
17 are imposed by the government in those
18 cases; is that correct?

19 MR. HARRIS: Objection to
20 form. Outside the scope.

21 BY MR. KOBRIN:

22 Q. Strike that.

23 Is your experience with
24 these penalties related to penalties

1 imposed by the government?

2 MR. HARRIS: Objection to
3 form. Still outside the scope.

4 THE WITNESS: Yes.

5 BY MR. KOBRIN:

6 Q. Do you have any experience
7 with civil litigation penalties at all?

8 MR. HARRIS: Objection to
9 form. Outside the scope.
10 Relevance.

11 BY MR. KOBRIN:

12 Q. Strike that.

13 Mr. Shaheen, there was a lot
14 of discussion today about whether Giant
15 Eagle goes above and beyond in its
16 efforts to prevent diversion.

17 Do you recall that?

18 A. Yes.

19 Q. In fact, you were just asked
20 by plaintiffs' counsel whether you still
21 believe Giant Eagle goes above and
22 beyond. Do you remember that?

23 A. Yes.

24 Q. And we've reviewed the

1 documents today. Do they make you
2 believe that Giant Eagle goes above and
3 beyond --

4 MR. HARRIS: Object to form.

5 BY MR. KOBRIN:

6 Q. -- in its effort to prevent
7 diversion? Do they support your belief
8 that Giant Eagle truly goes above and
9 beyond in its efforts to prevent
10 diversion?

11 A. I believe Giant Eagle goes
12 above and beyond to prevent diversion.

13 Q. Do you believe that the
14 documents today showed that Giant Eagle
15 goes above and beyond in its efforts to
16 catch diverters?

17 MR. HARRIS: Objection to
18 form.

19 THE WITNESS: Yes.

20 BY MR. KOBRIN:

21 Q. Do you believe that the
22 documents that you saw today show that
23 Giant Eagle goes above and beyond in its
24 efforts to catch diverters?

1 A. Yes.

2 Q. Do you believe that the
3 documents that you reviewed today showed
4 that Giant Eagle cares deeply about
5 preventing diversion in the communities
6 it serves, including Lake County and
7 Trumbull County, Ohio?

8 MR. HARRIS: Objection to
9 form.

10 THE WITNESS: Yes.

11 MR. KOBRIN: Thank you,
12 Mr. Shaheen.

13 MR. HARRIS: Mr. Shaheen, my
14 final question is, are you ready
15 to be done with this depo?

16 THE WITNESS: Yes.

17 MR. HARRIS: I have no more
18 questions for you, sir.

19 THE WITNESS: Thank you,
20 Mr. Harris.

21 MR. HARRIS: Thank you,
22 Mr. Shaheen. I appreciate your
23 time today.

24 Mr. Kobrin, I appreciate you

1 being here as well. I'm glad we
2 worked through it together.

3 Madam Court Reporter,
4 videographer, and techs, thank you
5 everyone so much. We truly
6 appreciate y'all's work today.

7 MR. KOBRIN: Second that.
8 Thank you.

9 Pleasure working with you,
10 Josh.

11 THE VIDEOGRAPHER: All
12 right. This concludes today's
13 deposition. We're going off
14 record. The time is 6:21.

15 (Excused.)

16 (Deposition concluded at
17 approximately 6:21 p.m.)

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2 CERTIFICATE
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4

5 I HEREBY CERTIFY that the
6 witness was duly sworn by me and that the
7 deposition is a true record of the
8 testimony given by the witness.

9 It was requested before
10 completion of the deposition that the
11 witness, RICHARD SHAHEEN, have the
12 opportunity to read and sign the
13 deposition transcript.

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MICHELLE L. GRAY,

A Registered Professional
Reporter, Certified Shorthand
Reporter, Certified Realtime
Reporter and Notary Public

Dated: March 12, 2021

(The foregoing certification
of this transcript does not apply to any
reproduction of the same by any means,
unless under the direct control and/or
supervision of the certifying reporter.)

1 INSTRUCTIONS TO WITNESS

2

3 Please read your deposition
4 over carefully and make any necessary
5 corrections. You should state the reason
6 in the appropriate space on the errata
7 sheet for any corrections that are made.

8 After doing so, please sign
9 the errata sheet and date it.

10 You are signing same subject
11 to the changes you have noted on the
12 errata sheet, which will be attached to
13 your deposition.

14 It is imperative that you
15 return the original errata sheet to the
16 deposing attorney within thirty (30) days
17 of receipt of the deposition transcript
18 by you. If you fail to do so, the
19 deposition transcript may be deemed to be
20 accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, 1 - 455, and that the
same is a correct transcription of the
answers given by me to the questions
therein propounded, except for the
corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

RICHARD SHAHEEN

DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.
My commission expires: _____

Notary Public

1	LAWYER'S NOTES		
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